

Appendix I – Model Contract

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ELECTRONIC BENEFIT TRANSFER AGREEMENT

This Electronic Benefit Transfer Agreement is executed as of the Execution Date, by and between the Health and Welfare Agency Data Center, State of California ("the State") and _____ ("Contractor").

RECITALS

The State issued an Invitation to Partner on _____ to vendors desiring to design, develop, implement and operate an electronic benefit transfer ("EBT") system for the State;

Contractor submitted its response to the Invitation to Partner on _____ (the "Proposal");

The State is interested in retaining Contractor to design, develop, implement and operate the State's EBT system and to provide EBT services, as described below; and

Except as otherwise provided below, the terms of the ITP and Proposal will apply to and be incorporated into this Electronic Benefit Transfer Agreement.

Therefore, in consideration of the foregoing premises and the mutual covenants and promises set forth below, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows.

1. DEFINITIONS.

"Acceptance": A notice from the State to Contractor that, as applicable: (i) the System has satisfied its Acceptance Tests and met FNS's requirements during the System Acceptance Tests, as described in Section 9.9; (ii) the System has successfully completed its Pilot Evaluation for the Pilot County during the Pilot Phase; (iii) the Eligibility System Interfaces have satisfied their Acceptance Tests; or (iv) a Deliverable or Service has satisfied the Acceptance Criteria described in the DED and Section 7.3 of the Agreement.

"Acceptance Criteria": The measures against which Deliverables and Services shall be evaluated and the basis for Acceptance or non-acceptance thereof, as described in the DED for that Deliverable and Section 7.3 of this Agreement.

"Acceptance Tests": The tests that are (i) managed by Contractor according to a State approved Acceptance Test Script, at a time and facility, and with participants coordinated by Contractor and (ii) performed by the State, Counties, and/or their authorized agent(s) and/or third-party contractor(s) to determine there are no Deficiencies in the System, in whole and in part, and that must be satisfied before System Acceptance, or Acceptance of Interfaces can occur.

"ACH": Automated Clearing House.

"ACH Window": The time span within which a financial institution may send ACH items to the ACH operator for processing and availability to the receiving depository financial institution by a specific time.

"Acquirer": Entities that initially receive transaction data from POS or ATM devices and route the Data to a switch or directly to the authorizing database operator, including without limitation Retailers, Third Party Processors, ATM networks, and transaction acquirers.

"Administrative Equipment": All Equipment listed on Schedule 5a or 5c in Exhibit C.

"Administrative Functions": Transactions, tasks and activities as defined by the Detailed System Design to manage and update information contained in the System database. Administrative functions

include, but are not limited to, those functions performed via Administrative Terminal to support State, County, Recipient, and Retailer transactions and information requests.

“Administrative Terminals”: The hardware, third party software and peripheral Equipment required to interface with the System in order to perform Administrative Functions as specified in the Detailed System Design and as defined in the Proposal. Administrative terminals shall provide gateway access to the System and shall provide access to a variety of functional areas, including but not limited to State, County and Federal administrative staff, Recipient training and Card issuance centers, Recipient and Retailer help desks, and Settlement and Reconciliation agents.

“Agreement”: The terms and conditions of this Electronic Benefit Transfer Agreement and the ITP, the Proposal, the Exhibits attached hereto, and the Specifications, which are all incorporated in the Agreement by this reference.

“ARU”: Automated Response Unit. A computer peripheral that accepts data from touch tone telephones and responds with synthesized voice commands and information.

“ATM”: Automated teller machine.

“Benefit”: Aid authorized by a County to or on behalf of an individual according to the requirements of the Food Stamp Program, CalWORKs Program, General Assistance Program, or other program included in the System.

“BIN”: Bank identification number. A number on a magnetic stripe, which begins immediately after the start sentinel on a Card and which consists of six contiguous digits.

“Border Store(s)”: Retail stores in states bordering California and stores in California counties bordering counties involved in the Pilot and/or Statewide Implementation Plan, as reasonably directed by the State.

“Business Function”: The performance of an elementary process by administrative Equipment (e.g., Card embossing and Card issuance, PIN selection, administrative terminal transactions or inquiry).

“Calls Dropped”: Calls that have entered the ARU queue but that are disconnected before the caller receives the applicable Customer Services.

“Card”: The card that Recipients will use with the System to receive EBT Services.

“Case”: A single beneficiary unit receiving benefits from one or more programs.

“Caseload”: The actual California food stamp caseload at the Execution Date.

“Case month”: A month in which benefits are posted to a case.

“Cash EBT County”: A County that intends to implement the System for the issuance of CalWORKs, General Assistance, or other cash program Benefits.

“Confidential Information”: Various trade secrets and confidential information of each party, subject to State and Federal law and the requirements described herein, including without limitation: all proprietary and confidential information of the State, Counties, or Contractor, such as the Data, trade secrets, designs, drawings, specifications, computer programs, support materials, or other records concerning the State, Counties, or Contractor and their finances, contracts, services or personnel; information concerning Recipients; the Documentation; the other Specifications; the Software; the Work Plan; the other Deliverables; any information or documentation concerning the State’s, a County’s, or Contractor’s plans or operations that are learned by Contractor, a County, or the State during the performance of this Agreement; or information designated as confidential by the State, a County, or Contractor. Contractor must designate in writing or stamp as confidential and proprietary the information it considers to be its Confidential Information.

“Confirmation”: The State’s receipt of notice and full supporting and written documentation (including, without limitation, test results) from Contractor that Contractor has completed development of the System, pre-tested the System for its compliance with the Specifications, and confirmed its readiness for applicable System Acceptance Tests.

“Contracting Officer”: A representative of the State, as designated by the State.

“Conversion”: The process of converting an individual case from the paper based issuance system to the System.

“County”: A California County.

“CPI”: The United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index, All Urban Consumers (CPI-U), All Items (1982-84=100), or such other comparable measurement that is designated by the Federal government to replace this measurement during the term.

“CPCM”: Cost per case month, as described in Exhibit A.

“Customer Service”: Services provided by a toll-free telephone number to Recipients and Retailers, as described in ITP Section 6.11.

“Data”: The State’s or Counties’ records, Recipient information, files, forms, and financial, statistical, personal, personnel, technical and other data and other information that will be processed by the Software or that originates from or is provided by the State or Counties in connection with the Agreement.

“days”: Calendar days, unless otherwise indicated.

“Deficiency”: A failure of a Deliverable or Service, or an omission, defect or deficiency in a Deliverable or Service, causing it not to conform to its applicable Specifications.

“DED”: Deliverable Expectation Document, as described in Section 7.1.

“Deliverable(s)”: Contractor’s products described: (i) as Deliverables in Exhibit B and this Agreement, and in Deliverables provided to the State pursuant to this Agreement; (ii) as deliverables or sub-deliverables in the ITP and the Proposal; and (iii) all designs, structures, and models developed in the course of rendering the Services.

“Delivery Date(s)”: The dates described in the Project Work Plan for the delivery of the Deliverables and Services to the State, as applicable.

“Design Phase”: The phase of the System life cycle in which functional Specifications and program requirements are identified and defined and compiled into a General System Design and Detailed System Design, as described in Section 8 of this Agreement.

“Detailed System Design”: The Deliverable described in Section 8.6.

“Development Phase”: The phase of the System life cycle in which the System programming, Functional Demonstration and Acceptance Tests occur, as described in Section 9 of this Agreement.

“DGS”: The California Department of General Services.

“Documentation”: All Systems, operations, technical and user manuals (or other media) used in conjunction with the System, in whole and in part.

“Downtime”: The time the System should have been available to process transactions but is being repaired, is awaiting repairs, is awaiting changes to its control program(s), or is otherwise unavailable for use by the State, excluding scheduled maintenance.

“EBT Host”: The host computer(s) for the System.

“EBT Services”: The Project management, transaction processing, Customer Service, Implementation, maintenance, and Operations support Services to be provided by Contractor and the System during the term, as described in this Agreement, the Project Management Plan, and other Deliverables.

“EBT System Innovation”: An innovative improvement to the System that may be related to the business, technical, operational and application areas of the System and that is described further in ITP Section 5.11 and Section 14.18 of the Agreement.

“EFT”: Electronic funds transfer.

“Eligibility System”: A County-based or County Consortium-based computer system that will provide eligibility information over Interface to the System.

“Eligibility System Pilot”: Initial Implementation of the System in the first County using an Eligibility System other than the Eligibility System used in the Pilot County, for purposes of testing the Interface and continued performance of the System according to Specifications, as described in Section 11.8 of the Agreement, the ITP, and the Proposal.

“Enhancements”: Updates, upgrades, additions, changes to, and new releases, in whole or in part, for the System.

“Equipment”: Hardware purchased or leased under this Agreement (including but not limited to Administrative Equipment and POS equipment), provided by Contractor to the State, Counties or Acquirers for the System, and all equipment and physical materials required for and associated with its operation, as described in the ITP and Exhibit C.

“Execution Date”: The date after which the Agreement has been approved by FNS, executed by Contractor and the State, and approved by DGS.

“Facility(ies)”: The offices where State staff and County staff will be located during the Agreement, as designated by the State.

“Federal System Certification”: The event when FNS confirms that the System meets Federal EBT requirements and is ready, in the view of FNS, for Implementation to begin.

“FNS”: The United States Department of Agriculture, Food and Nutrition Service.

“Functional Demonstration”: The demonstration of the System as described in Section 9.4.

“Functional Restoration”: The condition when a Business Function, which has a Deficiency, is working again in accordance with Specifications as a result of a correction of the Deficiency or a work around or a temporary fix.

“General System Design”: The Deliverable described in Section 8.4.

“HWDC”: The California Health and Welfare Agency Data Center.

“Implementation”: The process of providing Services and Deliverables necessary to make the System fully operational in accordance with the terms of this Agreement and without Deficiency, and completion by Contractor of all implementation Services described in the Project Work Plan.

“Implementation Status Report”: The Report described in Section 11.10.

“Installation Date(s)”: The date(s) in the Project Work Plan for completing installation of Equipment in accordance with the terms of the Agreement.

“Interface(s)”: The Software to be developed by Contractor for transmitting Data and software among the System and other computer systems, including but not limited to Eligibility Systems, in source and object code forms, as described in Section 9.5.

“Interface Planning Guide”: The Deliverable described in Section 9.5.2.

“Interface Specifications Document”: The Deliverable described in Section 9.5.1.

“Invoicing Event”: The events that allow Contractor to submit an invoice for payment to the State.

“ITP”: The Invitation to Partner HWDC- 8024, including without limitation all addenda.

“JAD”: Joint application development.

“Key Staff”: Those Staff identified in the Staffing Plan of the Project Management Plan, whose responsibilities include Project administration, management and operational decision-making.

“Licensed Materials”: Documents, software, videotapes, the ARU script(s), other training materials, and other intellectual property and materials that are both: owned by Contractor, its Subcontractors and/or other parties; and incorporated by Contractor into a Deliverable or provided by Contractor to the State or used by Contractor to provide the EBT Services, including without limitation for installation on the Equipment and use with the System, and the associated Documentation.

“Live Demonstration”: The System demonstration described in Section 9.11.

“Notice”: A written document given by a party to the other in accordance with Section 23.26 of this Agreement.

“Operations Phase”: The period during which Contractor will provide Benefits to Recipients through the System.

“Payment Events”: The events after which Contractor can issue invoices for payment, as provided in Section 3.1 of this Agreement.

“Performance Standards”: The standards the System and Services shall meet during Acceptance Tests and the term, as described in this Agreement and applicable laws and regulations.

“Pilot”: Initial Implementation of the System in the Pilot County for purposes of fully testing all aspects of EBT Services, as described in Section 11 of the Agreement, the ITP, and the Proposal.

“Pilot County”: One County, to be selected by the State, where EBT Services will be provided during the Pilot, including County offices, FNS certified Retailer locations, and cash access locations.

“Pilot Evaluation”: A review performed by the State and/or its authorized agent(s) and/or third party contractor(s) in accordance with the [Pilot Evaluation Plan and Acceptance Criteria] to determine that there are no Deficiencies in the System and that must be approved by the State before Pilot Evaluation Acceptance of the System and further Implementation activities can occur.

“Pilot Evaluation Acceptance”: Acceptance by the State of the Pilot Evaluation.

“Pilot Implementation Plan”: The Deliverable described in Section 11.5.

“POS”: Point-of-sale.

“Project”: The planned undertaking regarding the entire subject matter and the term of this Agreement, and the activities of all parties related hereto for the System.

“Project Coordinator”: The State individual to whom the Project Director will report and who will have executive oversight and responsibility for Project management.

“Project Director”: The individual chosen by the State with day-to-day management responsibilities for the Project.

“Project Management Plan”: The Deliverable that is the overall plan and delineation of Contractor Services, State staff tasks, and activities and events for the Project, including without limitation those related to the Deliverables and milestone dates in Exhibit B. The Project Management Plan is incorporated herein by this reference, and each revised Project Management Plan will be incorporated herein upon its Acceptance by the State.

“Project Manager”: The individual chosen by Contractor with management responsibilities for Contractor, as described in the Agreement.

“Property”: All the State and County equipment and other State and County real and personal property.

“Quest Operating Rules”: EBT operating rules promulgated by the National Automated Clearing House Association EBT Council.

“Recipients”: The recipients of the State’s services.

“Region”: Each geographic area designated as a region by the State.

“Report(s)”: Documents provided by Contractor to the State regarding Project activities, events and Services provided.

“Reports Manual”: The Deliverable describing the Reports Contractor will provide to the State and the manner and time in which the Reports will be prepared.

“Resolution”: The condition when a Deficiency causing a disrupted Business Function is resolved. A Resolution is a permanent fix. An alternative is no longer required or a permanent replacement has been provided.

“Retailer”: A person or entity, including without limitation a retailer, check casher, Group Home, Housing Authority, or other organization, that has entered into a Retailer Agreement or Third Party Processor Agreement with Contractor to accept the State EBT Cards for purchases of goods or services.

“Retailer Agreement”: The agreement between Contractor and a Retailer.

“Rollout”: Implementation after Pilot in the various Regions.

“Schedule”: The dates described in the Project Work Plan and the Statewide Implementation Plan for deadlines for performance of Services and other Project events and activities.

“Services”: The tasks and services to be performed by Contractor on the Project, as described in the Agreement and the Deliverables.

“Settlement and Reconciliation”: The Services to be provided pursuant to ITP Section ____.

“Site(s)”: Any location(s) where Equipment is installed (e.g., State and County offices and Retailer locations).

“Software”: Licensed Materials, Interfaces and Enhancements to the Interfaces made by Contractor, and the application software and operating systems software included as part of the System.

“Specifications”: The Specifications shall include: the Performance Standards; the Deliverables; the Acceptance Criteria; manufacturers' published specifications; the Documentation; Quest Operating Rules; applicable Federal, State, County and local laws, regulations, and codes; and other specifications and requirements described in the Agreement. The Specifications are, by this reference, made a part of the Agreement, as though completely set forth herein.

“Staff”: Contractor's employees, Subcontractors and their employees and contractors, and agents who will provide the Services on behalf of Contractor.

“Statewide Implementation”: Completion of Implementation in accordance with the terms of this Agreement in all Counties.

“Statewide Implementation Plan”: The Deliverable described in Section 11.2.

“Subcontractor”: A person, partnership, or company not in the employment of or owned by Contractor, which is performing Services under this Agreement under a separate agreement with or on behalf of Contractor or providing Equipment to Contractor for this Agreement.

“System”: The complete collection of the Software, Services and Equipment as described in the Agreement, integrated and functioning together, and performing the EBT Services in accordance with the applicable Specifications.

“System Acceptance”: Acceptance of the System.

“System Acceptance Test”: The test that is performed by Contractor and/or the State and/or its authorized agent(s) and/or third party contractor(s) to determine there are no Deficiencies in the System and that must be satisfied before System Acceptance can occur.

“System Test Plan”: The Deliverable that describes the plans and processes for performance and Acceptance of the Functional Demonstration, Acceptance Tests, and Interface Acceptance Tests, as applicable.

“Third Party Processor”: A company that operates and maintains Retailer POS terminals, authorizes and processes transactions, and settles Retailer accounts.

“Third Party Processor Agreement”: The agreement between a Third Party Processor and Contractor.

“Training”: The Training Services to be provided by Contractor as described in this Agreement and Training Plan Deliverables.

“Unit Prices”: The amounts to be paid per piece of Equipment by the State for leasing or purchasing Equipment or for an Optional Service, as described in Exhibit A.

“Uptime”: The time the System is available for productive work (24 hours per day, seven days per week), excluding scheduled Downtime for routine maintenance Services.

“Weekly Status Reports”: The Reports described in Section 4.2.1.

“Work Authorization”: A written form used in accordance with the terms of Section 16 of the Agreement.

2. TERM. The term shall begin on the Execution Date and shall continue for seven years thereafter, unless terminated earlier as provided herein. The State reserves the option to extend the term for two additional periods of one year each upon notice to Contractor of its intent to renew the Agreement.

3. FINANCIAL MATTERS.

3.1 Payment. Except as otherwise provided herein and subject to Contractor's performance of its obligations under this Agreement, the State shall pay Contractor for its Services within 45 days of acceptance by the State of correct and undisputed invoices therefor. The State may pay any amounts that are not in dispute and that have been invoiced in accordance with the terms of the Agreement.

3.2 Invoices

3.2.1 Invoices may not be submitted until the month following the month for which Charges accrue. Invoices for the Design Phase, Development Phase and Implementation Services, and for Equipment and/or Software for the System are not due and payable and do not constitute an obligation to the State until an Invoicing Event occurs, as provided in Section 3.3.

3.2.2 All invoices submitted must meet with the approval of the Project Director or his or her designee prior to payment. Contractor must submit original invoices and ___ copies specifying the amount due and certifying that Services requested under the Agreement have been performed by Contractor according to the Agreement. Invoices shall not be submitted more frequently than monthly to the State. Invoices payable by the State shall be submitted to:

Health and Welfare Agency Data Center
1651 Alhambra Blvd.
Sacramento, CA 95816
Attention: Accounting Office

3.2.3 All invoices, bills of lading, shipping memos, packages and any other form of correspondence must refer to this Agreement number plus any unique identifier generated by the State on a statement of work or order.

3.2.4 Invoices shall account for each Service by description and cost. Invoices for Equipment shall account for each item by model number, serial number, third party software and physical location with applicable costs broken down by Equipment cost and sales tax. Additional invoice descriptions may be mutually agreed upon by the State and Contractor.

3.2.5 Contractor shall make every effort to reconcile incorrect invoices in a timely manner, not to exceed 30 days from notification by the State of a discrepancy. The State shall withhold payments from invoices issued as a result of this Agreement until the discrepancies have been corrected.

3.3 Invoicing Events.

3.3.1 The first Invoicing Event is the Acceptance by the State of the Pilot Evaluation. When that Acceptance is received, Contractor may submit an invoice in the amount of 90% of the Design Phase and Development Phase costs provided in Schedule 1a in Exhibit A.

3.3.2 The second Invoicing Event is the successful, completed Implementation of the System in Counties representing 25% of the Caseload. When Counties whose total Caseload is 25% of the Caseload have successfully completed Implementation, Contractor may submit an invoice for 90% of the Implementation costs incurred at that point in time. The Implementation costs incurred at that point are 25% of the Statewide food stamp Implementation costs plus the cash Implementation cost for any of the fully implemented Counties that implemented a cash EBT program as provided in Schedule 1b of Exhibit A.

3.3.3 The third Invoicing Event is the successful, completed Implementation of the System in Counties representing 50% of the Caseload. When Counties whose total Caseload is 50% of State of California

the Caseload have successfully completed Implementation, Contractor may submit an invoice for 90% of the further Implementation costs incurred at that point in time. The further Implementation costs incurred at that point are an additional 25% of the Statewide food stamp Implementation cost (i.e., 25% more than the 25% referenced in Section 3.3.2) plus the cash implementation cost for any additional fully implemented Counties that implemented a cash EBT program according to Schedule 1b of Exhibit A.

3.3.4 The fourth Invoicing Event is the successful, completed Implementation of the System in Counties representing 75% of the Caseload. When Counties whose total Caseload is 75% of the Caseload have successfully completed Implementation, Contractor may submit an invoice for 90% of the further Implementation costs incurred at that point in time. The further Implementation costs incurred at that point are an additional 25% of the Statewide food stamp Implementation cost (i.e., 25% more than the 50% referenced in Section 3.3.3) plus the cash Implementation cost for any additional fully implemented Counties that implemented a cash EBT program according to Schedule 1b of Exhibit A.

3.3.5 The fifth Invoicing Event is the successful, completed Implementation of the System in all Counties. When all Counties have successfully completed Implementation, Contractor may submit an invoice for the remaining Statewide food stamp Implementation cost plus the cash Implementation cost for any additional Counties that implemented a cash EBT program as provided in Schedule 1b of Exhibit A. Contractor may also submit an invoice for 10% of the Design Phase, Development Phase, and any unpaid Implementation costs when the fifth Invoicing Event is attained.

3.3.6 Administrative Equipment leases may be invoiced monthly after the items have received Acceptance from the State using the rates provided in Schedule 5c of Exhibit A. State Acceptance of Equipment is described in Section 5. However, no invoices for Administrative Equipment will be due and payable by the State until the State Acceptance of the Pilot Evaluation. When the Pilot Evaluation receives the State's Acceptance, Contractor invoices for Administrative Equipment previously accepted by the State will be processed for payment as if they were received on the date the State provides Acceptance for the Pilot Evaluation.

3.3.7 Administrative Equipment purchases may be invoiced after the items have received Acceptance from the State using the rates provided in Schedule 5a of Exhibit A. State Acceptance of Equipment is described in Section 9.7. However, no invoices for Administrative Equipment will be due and payable by the State until the Acceptance of the Pilot Evaluation. When the Pilot Evaluation receives the State's Acceptance, Contractor invoices for Maintenance Services for Administrative Equipment previously accepted by the State will be processed for payment as if they were received on the date the State provides Acceptance for the Pilot Evaluation.

3.3.8 Maintenance Services for Administrative Equipment may be invoiced monthly in arrears using the rates provided in Schedule 5b or 5d of Exhibit A. When the Pilot Evaluation receives the State's Acceptance, Contractor invoices for maintenance Services for Administrative Equipment previously accepted by the State will be processed for payment as if they were received on the date the State provides Acceptance for the Pilot Evaluation.

3.3.9 Each calendar month of the Operations Phase, following State Acceptance of the Pilot Evaluation, Contractor may submit an invoice for payment of the CPCM for each food stamp, cash assistance or combined Cases that had a Benefit posted to the account that month. Monthly billings to the State shall be based on the CPCM in the pricing tier in Schedule 2 of Exhibit A that corresponds to the total actual number of Cases on the System Statewide, as provided in the ITP Section 7.1.2.

3.3.10 Contractor may submit monthly invoices to the State, following State Acceptance of the Pilot Evaluation, for all County Specific Services provided pursuant to Schedule 3 of Exhibit A. Contractor shall multiply the unit cost for the Service, by the number of Cases for which that Service was provided. Work Authorizations and EBT System Innovations shall be billed monthly, when applicable, using the rates provided in Schedule 6a and 6b of Exhibit A respectively. No invoice for Work Authorizations or EBT System Innovations will be due and payable by the State until State Acceptance of the Services provided.

3.3.11 For purposes of Sections 3.3.2 – 3.3.5, the Counties and the Caseloads shall not include San Bernardino or San Diego Counties and their associated Caseloads.

3.4 No Increases. Contractor shall not increase the amounts due from the State under this Agreement for all Services and Deliverables as described in Exhibit A during the term of this Agreement, except for increases resulting from Work Authorizations initiated by the State. However, price declines by Equipment, Software or third party materials providers shall be immediately passed through to the State.

3.5 Price Adjustments. Contractor shall not change the CPCM amounts or the Unit Prices for the term of this Agreement. If the State extends the term of the Agreement beyond its original term and the two additional one-year periods in order to allow for a transition period thereafter, an adjustment in the CPCM amounts or Unit Prices shall be made during this subsequent transition period to reflect the percentage increase in the CPI in the year prior to the expiration date of this Agreement.

3.6 Contingency of Funds.

3.6.1 Financial obligations of the State payable in fiscal years subsequent to those in which the Agreement is approved are contingent upon and subject to funds for that purpose being appropriated, allotted, and otherwise made available.

3.6.2 Payment pursuant to this Agreement, whether in whole or in part, is subject to and contingent upon the continuing availability of Federal and State funds for the purposes hereof. If such funds, or any part thereof, become unavailable as reasonably determined by the State or if the funds the State relied upon to establish or continue the Agreement are withdrawn, not appropriated, reduced or limited in any way, or if additional or modified conditions are placed on such funding, the State in addition to its other remedies, may:

3.6.2.1 Suspend the Agreement or the portion affected thereby for 90 days;

3.6.2.2 Amend the Agreement to the extent the State determines is necessary;
and

3.6.2.3 After giving five days notice, immediately terminate the Agreement under Section 22.2.1.1 of the Agreement and make payment to Contractor as provided in Section 22.3 of the Agreement as a termination for convenience.

3.7 Transportation and Insurance Charges. The costs associated with transportation, delivery and insurance for each Deliverable, if any, shall be paid for by Contractor.

3.8 Taxes. The State of California is exempt from Federal excise taxes. The State shall pay Contractor for any State or local sales or use taxes imposed on goods or Services acquired by the State hereunder. However, Contractor must pay all other applicable taxes including, but not limited to, taxes based on Contractor's income, or personal property taxes levied or assessed on Contractor's personal property to which the State does not hold title.

3.9 Contractor Expenses. The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including without limitation travel and per diem, unless otherwise expressly agreed to in writing by the State.

3.10 Most Favored Customer. Contractor agrees all the prices, terms, warranties, and benefits granted by Contractor are no less favorable than comparable terms being offered by Contractor to any state meeting similar qualifications or requirements as the State. Except as otherwise herein provided, if Contractor shall, during the term of this Agreement, enter into arrangements with any other governmental entity providing greater benefits or more favorable terms, Contractor shall provide the same to the State, effective as of the date they are agreed upon with such other state.

3.11 Overpayments to Contractor. Contractor shall promptly refund to the State the full amount of any erroneous payments, incorrect payments or overpayments upon notice from the State to Contractor thereof to which Contractor is not entitled, as determined by the State.

3.12 Credits. Any credits due the State under this Agreement may be applied against Contractor's invoices with appropriate information attached, upon giving of prior notice required herein, if any, by the State to Contractor.

3.13 Advance Payments Prohibited. No payments in advance or in anticipation of services or supplies under this Agreement shall be provided by the State.

3.14 Payments to Subcontractors. Any money paid to Contractor by the State shall be dispersed to its Subcontractors after receipt of the money in accordance with the terms of the subcontract; provided that the Subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes. Upon final payment to Contractor, full payment to the Subcontractors shall be made after receipt of the money; provided that there are no bona fide disputes over the Subcontractor's performance under the subcontract.

4. PROJECT MANAGEMENT AND SCOPE.

4.1 Overall Responsibilities of Contractor. Contractor is responsible for all tasks and Deliverables required for the design, development, implementation, training, operations and maintenance of the System, to accommodate food stamp and cash benefit programs, as described elsewhere in the Agreement. Responsibilities of Contractor include, but are not limited to:

4.1.1 Project management and control of functions for the EBT activities, including Contractor Staff and personnel matters, quality assurance and change management, and progress reporting;

4.1.2 Functional and technical design of the System;

4.1.3 Providing a central transaction processing site;

4.1.4 Acquisition, installation and maintenance of all System Equipment, and integration of all System Equipment and Software;

4.1.5 Designing, providing and/or utilizing necessary communications networks, as applicable;

4.1.6 Conducting System Acceptance Tests, in coordination with the State and FNS, including but not limited to Acceptance Tests of all Software, Equipment, communications networks, and on-line and batch processing;

4.1.7 Providing full and complete System Documentation;

4.1.8 Providing required Training in System use for State and County staff, Clients and Retailers;

4.1.9 Statewide implementation of the System; and

4.1.10 Operation and maintenance of the implemented System.

4.2 Meeting and Reporting Requirements. During the term of this Agreement, Contractor shall produce the Reports, provide the materials, and participate in the meetings described in the ITP, Proposal and below in this Section at no additional cost.

4.2.1 Weekly Meetings and Reports.

4.2.1.1 The Project Manager and other key Contractor individuals as agreed to by the parties shall attend weekly meetings with the Project Director and other members of the State's Project team at the Sacramento project office. These weekly meetings shall follow a preset agenda prepared by the Project Manager in cooperation with the Project Director, but will also allow both parties to discuss other issues that may concern either party. The Project Manager shall lead these meetings. At these weekly meetings, the Weekly Status Reports and any related matters shall be reviewed. Any variances from the approved Project Work Plan shall be presented for Acceptance of such variances by the State, but such Acceptance by the State shall not relieve Contractor of any liability or liquidated or other damages contingent on meeting the original Schedule in the Project Work Plan. Subsequent to Acceptance of the variances, Contractor shall update the Project Management Plan, including the Project Work Plan, Deliverables list and milestone chart, to reflect the changes and send an updated copy of those sections to the Project Director within five working days. In addition, Contractor shall update the Schedule and Staff elements of the Project Work Plan during Implementation to include the detailed Implementation Schedule and Staff.

4.2.1.2 Contractor shall provide a Weekly Status Report to the Project Director at least 48 hours prior to these weekly meetings. The Weekly Status Reports shall describe the previous week's activities, comparing actual progress for the preceding week and tasks anticipated to be completed the following week with the approved Project Work Plan. It shall also describe problems encountered or anticipated and their disposition, results of tests, whether or not deadlines were met and any problems that may have arisen that need to be addressed before proceeding to the next activities. Contractor's proposed format and level of detail for the status Reports shall be mutually agreed to in writing by the parties in the Project Management Plan.

4.2.1.3 Such weekly meetings and Reports described above in Section 4.2.1.1 and Section 4.2.1.1 of the Agreement shall continue until mutually agreed to by the parties. The Project Manager and Project Director may agree to change the frequency of such meetings and to call special meetings as Project status requires. Either party may call special meetings.

4.2.1.4 Although weekly status meetings will be required, it is anticipated that coordination of activities between the Project Manager and the Project Director or designee will occur on a more frequent basis.

4.2.2 Monthly Meetings and Reports. The Project Manager shall attend, at a minimum, monthly (or other period agreed by the parties) status meetings with the Project Director, Project Coordinator, selected State executives and contractors, other State agency officials and management, and other parties designated by the State. In preparation for such monthly meetings, Contractor shall submit a status Report that will be due in the Project Director's office by the fifth day following the end of each month during the term of the Agreement. The narrative portion of the Report will address, at a minimum, the following:

4.2.2.1 Overall Project progress against approved milestones in the approved Project Work Plan including descriptions of activities underway, percentage complete, and any variances between planned and actual task/activity schedules;

4.2.2.2 Deliverable status and next month Schedule for review;

4.2.2.3 Problems, risks and issues encountered, the potential or actual impact of such issues, problems or risks to the Project; recommendations for resolution, corrective action, and or mitigation strategies; and benefits and risks associated with alternative actions and recommendations;

4.2.2.4 Problems and issues requiring attention and resolution, with proposed remedies and designation of parties responsible for resolution;

4.2.2.5 Each month's Service activities and performance against the Performance Standards; and
State of California

4.2.2.6 Proposed changes to the Project Work Plan, if any, that have received the State's Acceptance in the weekly meeting and reporting process.

4.2.3 Issue Tracking and Reporting. Contractor shall track all Project issues using an automated issue tracking system, as described in the ITP Section 5.12.4. The issue tracking system shall provide a description of the issue, priority, plan for resolution, staff responsibility assignments, targeted and actual resolution dates, and the resolution action. Contractor shall provide, at a minimum, read-only access of the issue tracking system to key State staff as designated by the Project Director. Reports generated by the issue tracking system shall become part of Contractor's Weekly Status Report and Monthly Status Report.

4.2.4 Reports Manual. Contractor shall provide all Reports, as required by ITP Section 6.13 and included in the Reports Manual Deliverable in formats approved by the State. Reports shall be delivered to the appropriate parties, according to methods and Schedule agreed upon by the State and Contractor for the term of the Agreement.

4.2.5 Daily Transaction History File. Contractor will provide a Report comprised of a database extract of transaction information in a personal computer readable format designated by the State, on CD or disk media, and for use with a personal computer data base program also designated by the State. Such Report will be provided daily to each County and monthly to the State, according to requirements in ITP Section 6.13.

4.2.6 Unique or Special Reports. As reasonably requested by the State, the Project Manager shall assist the Project Director in preparing special Reports and presentations related to the Project management and participate in such presentations at no additional cost. The Project Manager shall also provide or produce such Reports or information as are reasonably requested by the Project Director regarding the Project.

4.3 Project Manager.

4.3.1 Contractor will assign to this Agreement a Project Manager of a management level sufficient to assure timely responses from all Contractor personnel. Contractor will assign to this Agreement the Project Manager named in the Proposal. The State shall review and approve the resume and qualifications prior to appointment of a proposed replacement Project Manager. The State shall also have the right to review such resume and qualifications for, and approve, any temporary substitute Project Manager. The State shall have the right to check references for and interview any such Project Manager prior to his or her appointment.

4.3.2 Contractor agrees and represents that its Project Manager will be fully qualified, including having the experience level equivalent to that of the project manager prepared in the Proposal to perform the tasks required of that position under this Agreement.

4.3.3 The Project Manager shall function as Contractor's authorized representative for all management and administrative matters not inconsistent with the provisions contained herein. Contractor's Project Manager, as well as his or her temporary substitute (if any), shall be able to make binding decisions related to the performance of the Services. The Project Manager shall devote his or her full time efforts to the Project. The Project Manager or other temporary substitute Project management personnel for Contractor shall be available full time at the EBT Project office in Sacramento or other locations designated by the State during the Project.

4.3.4 The Project Manager shall be responsible for acting as a liaison with the Project Director. The Project Manager shall be responsible and accountable for the Project to the State's executive staff, Project Director or designee.

4.3.5 If Contractor's Project Manager is not performing his or her obligations to the State's satisfaction, the State shall notify Contractor, which will remove such Project Manager and replace the Project Manager as provided herein. If Contractor removes or replaces its Project Manager, Contractor will promptly provide notice to the State, submit a resume, allow the State to interview, and

obtain approval of the replacement Project Manager from the State prior to his or her beginning work on the Project.

4.4 Contractor Project Staff.

4.4.1 The State and Contractor acknowledge that Contractor has provided the State with an organization chart of Contractor's Project team, including names of some Key Staff.

4.4.2 Contractor must provide prior Notice and must receive the State's approval in advance for any permanent or temporary changes to the above described organization chart or deletions from Contractor's named management, supervisory, and Key Staff. The State shall not unreasonably delay or deny approval of Contractor's personnel. Staffing will include the named Key Staff at the levels of effort proposed.

4.4.3 During the term of the Agreement, the State reserves the right to approve or disapprove Contractor's Staff, including but not limited to any Subcontractor's Staff assigned to this Agreement, or to approve or disapprove any proposed changes in Staff or staffing levels. The State may request, and Contractor will remove from work on the Project, Contractor employees or Subcontractors who the State identifies as being incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued employment on the Project is deemed to be contrary to the public interest or not in the best interest of the State, provided that such request will be based solely on nondiscriminatory reasons and Contractor shall have the right to request the withdrawal of any such request upon a showing to the State that the request is not warranted based upon performance of the employee or Subcontractor. Contractor shall provide the State with a resume of any member of its Staff or a Subcontractor's Staff assigned to or proposed to be assigned to any aspect of the performance of this Agreement prior to commencing any Services.

4.4.4 All Staff proposed by Contractor as Staff and as replacements for other Staff shall be technically competent and shall have the skills necessary to perform that person's Project activities, including having experience equivalent to that of the person holding that position in the Proposal, to perform the tasks required of that position under this Agreement.

4.4.5 The Staff shall be experienced and fully qualified to engage in the activities and perform the Services required under this Agreement. The Staff shall comply with all applicable licensing and operating requirements imposed or required under Federal, State, or County law, and other standards of quality generally accepted in the field of the activities of such Staff.

4.4.6 Contractor shall not remove its Key Staff from the Project except in the event of death, illness, retirement, disability, termination, or their leaving Contractor's employment and not serving as a consultant or contractor to Contractor, or subject to mutual agreement by the parties to allow their removal. If Contractor Staff is unable to perform due to illness, resignation or other factors beyond Contractor's reasonable control, Contractor will use its best efforts in providing suitable substitute personnel.

4.5 Project Director. The Project Manager's primary point of contact in matters of Project management will be the Project Director. In his or her Project management role, the Project Director will be responsible for the following:

4.5.1 Coordinating the reporting, review and Agreement compliance and Acceptance processes;

4.5.2 Facilitating the effective participation of the State staff;

4.5.3 Resolving questions raised by Contractor requiring clarification of the State requirements, policies, and procedures;

4.5.4 Monitoring the progress of all principal Project participants, including Contractor and the State;

4.5.5 Administering and managing this Agreement; and

4.5.6 Facilitating the timely resolution of issues raised by Project participants.

4.6 Resources.

4.6.1 Except as specifically provided herein, Contractor shall provide the personnel and all materials and resources necessary for the performance of the Services.

4.6.2 If Contractor and the State agree that Contractor personnel shall perform Services at State premises, the State shall provide the necessary office space, as identified in the Proposal.

4.6.3 The State is responsible for providing required information, data, and documentation, as specified in the ITP, to facilitate Contractor's performance of the Services.

4.7 Supplemental Contracts. The State may undertake or award supplemental contracts for work related to this Agreement, or any portion thereof. Contractor shall cooperate with such other contractors and the State in all such cases. Contractor will ensure that all Subcontractors will abide by this provision.

4.8 Reference Check on Staff and Subcontractors. Due to the confidential nature of the information and materials which will be accessible to Contractor, the State may conduct a reference check on Contractor Staff to be used to provide the Services. The State also reserves the right to conduct criminal history, background checks, and fingerprint checks on Contractor Staff. The State reserves the right in its sole discretion to reject or secure the termination of Contractor Staff from the Project as a result of information produced by any such checks.

4.9 Limitation of Authority. Only the Contracting Officer or delegate by writing (with the delegation to be made prior to action) shall have the express, implied, or apparent authority to waive any clause or condition of this Agreement on behalf of the State. Also, any waiver of any clause or condition of this Agreement is not effective or binding until made in writing and signed by the Contracting Officer or delegate thereof. In addition, the Contracting Officer shall have the authority to approve Work Authorizations without amending the Agreement.

4.10 Programs. The State initially intends to implement the State programs described below with the EBT benefit issuance System. However, the State reserves the right to add, modify, and delete Benefit programs supported by the System at any time on notice to Contractor in accordance with the Work Authorization process, which may or may not incur costs that would be paid by the State. The System will be designed to implement the following programs:

4.10.1 Federally funded Food Stamp program;

4.10.2 State funded Food Stamp program;

4.10.3 Temporary Assistance for Needy Families block grant program, known as CalWORKs (optional to Counties);

4.10.4 General Assistance/General Relief program (optional to Counties); and

4.10.5 Refugee Cash Assistance / Entrant Cash Assistance program (optional to Counties).

5. EQUIPMENT.

5.1 Installation and Delivery of Retailer Equipment. Contractor shall provide those Services that are necessary to ensure timely delivery and installation of Retailer Equipment. Contractor

may certify in writing that the EBT-only POS Equipment provided to Retailers on behalf of the State can readily be installed by the Retailers with written instructions. If the State agrees in writing, Contractor may ship the EBT-only POS Equipment to the Retailer site with instructions for installation by the Retailer. Contractor shall provide assistance via a telephone line staffed by Contractor technicians who are knowledgeable about the installation and testing of such Equipment. If, however, the Retailer is unable to install the Equipment and the Retailer notifies Contractor that Contractor assistance is required, Contractor shall then assist in the Equipment installation and certify that such installation has been accomplished. Such on-site assistance as described in this Section shall be provided within 24 hours of the Retailer's request.

5.2 Use of Administrative Equipment and Basis for Payment.

5.2.1 General. Administrative Equipment to be provided under this Agreement is listed in Exhibit C. Such Administrative Equipment may be leased, purchased during an existing lease period, or purchased outside of a lease plan pursuant to the prices in Exhibit A. Administrative Equipment under this Agreement may be operated at any time and for any length of time at the convenience of the State or Counties, exclusive of time required for preventive and remedial maintenance.

5.2.2 Orders. State Administrative Equipment order(s) shall be submitted on a Std. Form 65, "Contract/Delegation Purchase Order".

5.2.3 Relocation of Equipment. Except as determined by the State to be necessary, Administrative Equipment provided under this Agreement shall not be moved from the location in which installed. The State or County shall notify Contractor of Administrative Equipment moves made by State or County personnel. Unless otherwise indicated, the State or County will pay for the costs of relocating such Equipment.

5.2.4 Lease Terms.

5.2.4.1 Rates and Purchase Prices. The monthly cost to the State for use of the Administrative Equipment leased under this Agreement shall be in accordance with the pricing shown in Exhibit A. The lease plan(s), if applicable to such Administrative Equipment, shall be contained in Exhibit G. Pricing to purchase Administrative Equipment under this Agreement shall be in accordance with the pricing in Exhibit G.

5.2.4.2 Partial Monthly Lease. The basic monthly rental for leased Administrative Equipment, initially installed for a fraction of a calendar month, shall be computed at the rate of 1/30th of the basic monthly rental for each day the Administrative Equipment is installed, beginning on and including the first day following Acceptance or such lesser period as may be agreed to in writing by the State, through the last calendar day of the month. Administrative Equipment discontinued at any other time than the last day of the calendar month shall be billed for its basic monthly rental less 1/30th of the basic monthly rental for each calendar day in that month following the date of discontinuance.

5.2.4.3 Title to Equipment. Title to Equipment leased under this Agreement shall not vest in the State unless such items are purchased by the State. All devices and accessories furnished by Contractor hereunder, except those purchased by the State, shall accompany the leased Equipment when returned to Contractor.

5.2.4.4 Return of Leased Equipment. Within five working days after the date of discontinuance of lease or rental, Contractor shall contact the Project Director to schedule a date and time to remove the specified Administrative Equipment. Contractor will remove only those pieces of Administrative Equipment identified by a serial number unless changes are authorized in writing by the Project Director. Contractor must agree to a removal date no later than 30 days from the date Contractor and the Project Director meet to schedule the date and time to remove the specified Equipment.

5.2.4.5 De-Installation. The Project Director will notify Contractor in writing that the Administrative Equipment is ready for de-installation, giving specific date(s) and time(s) as agreed to State of California

in Section 5.2.4.4 above. Contractor will be responsible for disconnecting the Administrative Equipment and getting it ready for removal from the Site. Contractor will then retrieve the Administrative Equipment on the specific date(s) agreed to above.

5.2.5 Lease/Purchase Option. During the period of time the State leases Equipment from Contractor, Contractor may credit the State with a portion of the lease payments as purchase option credits to be applied against the purchase price if the State decides to purchase the Equipment. The accumulation of such credits, if applicable, shall be in accordance with the computations specified in Exhibit G. Contractor agrees that the State may, at any time following Acceptance of the Equipment and during the life of this Agreement, purchase any or all Equipment in accordance with the terms of this Agreement. The State also reserves the right to purchase any Equipment outside of a lease plan from other vendors.

5.2.6 Purchase of Administrative Equipment. Title of the Equipment shall be transferred to the State when the full purchase price, applicable taxes and interest charges, if any, are paid to Contractor, less withholds of amounts by the State as permitted under the Agreement. Title to a special feature which is installed on Equipment and for which only a single installation charge was paid shall pass to the State at no additional charge together with title to the Equipment on which it is installed.

5.3 Site Preparation.

5.3.1 If the Equipment to be installed requires special power or environmental considerations, Contractor shall provide Site preparation Specifications for Equipment listed on the order within a reasonable time upon request by the State, unless such Specifications have been included in the Proposal. These Specifications shall be in such detail as to ensure that Equipment, if installed according to these Specifications, shall operate in accordance with all requirements in the Agreement.

5.3.2 Contractor shall prepare a Site plan showing the location of each item of Equipment listed in the order and detailing the associated electrical power and environmental control facilities. Contractor shall be permitted access, subject to the security requirements for the Site, for this purpose. The State will review and approve each Site plan.

5.3.3 Contractor shall cause the Site(s) to be prepared in accordance with Contractor's written minimum Site and environmental Specifications on or before the Facility readiness date specified on the Equipment order.

5.3.4 Any subsequent alterations or modifications to the Site which are directly attributable to incomplete or erroneous Specifications provided by Contractor and which involve additional expense shall be made at the expense of Contractor, to the extent that such costs would not have been incurred had the complete and/or correct Specifications been initially provided.

5.3.5 The State or County is responsible for arranging for procurement, installation, and maintenance of communication facilities and equipment (such as telephone lines) necessary for the operation of EBT Administrative Equipment at the respective federal, State or County Site.

5.3.6 Contractor is responsible for arranging for procurement, installation, and maintenance of communication facilities (such as telephone lines) necessary for the operation of EBT-only POS Equipment installed on behalf of the State at the Retailer sites.

5.4 Delivery. Contractor shall strictly adhere to the delivery and installation Schedules specified in the Project Work Plan. Delivery may be restricted by the State to non-peak commute hours at specific Sites. Contractor shall ship the Equipment pursuant to this Agreement, FOB Destination and freight prepaid. Contractor shall deliver the Equipment into the Site designated by the State or the Retailer, as applicable at the Site. Contractor shall include with the Equipment a detailed packing list and appropriate handling instructions, as well as Equipment Documentation for a user of such Equipment.

5.5 Risk of Loss. Contractor and its insurers, if any, will relieve the State, Counties, the Retailers, FNS and others of responsibility for all risks of loss or damage for the Equipment until its Acceptance.

5.6 Installation.

5.6.1 Contractor will perform all installation Services in accordance with the Project Work Plan and this Agreement. Contractor or its Subcontractors, who are performing such installation Services, will notify the person who is designated by the Project Director or her designee (in writing) as the single point of contact at a Site, at least seven days in advance, that Contractor or such Subcontractors will be arriving to provide installation Services.

5.6.2 Contractor or its Subcontractors shall unpack, uncrate and install the Equipment at each Site. The installations will be conducted by manufacturer-certified technicians. Such technicians shall be trained at least to the level of technicians certified on the then-current version of the Equipment being installed and shall be certified by applicable manufacturers.

5.6.3 Contractor shall conduct its installation Services so as to minimize interference with normal activities of the State, the Counties, and the Retailers. Contractor will be responsible for safety conditions in the areas of work performance and shall keep the portions of the Site in which it is installing the Equipment safe, clean and orderly at all times. This requirement will apply continuously and not be limited to normal work hours. Contractor will restore the Site to a condition no less finished than prior to the initiation of the Equipment's installation. Upon completion of installation, Contractor will leave the Site clean and free from all of its materials, tools, and Equipment not required after installation and from all rubbish and debris which result from installation.

5.6.4 Installation Dates may be changed by mutual consent of Contractor and the State; however, consent of Contractor is not required if, at least 30 days prior to the Installation Date, the State defers the installation of any Equipment, but a new Installation Date will be established by mutual agreement. Such unilateral deferment shall not exceed 90 days, except by mutual agreement.

5.6.5 Contractor shall determine that the Equipment is ready for use and operates in conformance with the Specifications. Contractor shall then certify in writing to the State that the Equipment is installed, operational in accordance with the Specifications, and ready to be turned over to the operational control of the State or County. Contractor shall also provide to the State appropriate Documentation to support the above-described certification, at which time the State will perform tests to validate its installation and performance as required in this Agreement. When the State validates that the performance of the Equipment is satisfactory, the State will provide Acceptance of the Equipment.

5.7 Access. Contractor shall have access to the Equipment at the Sites to provide Services described in this section, subject to the security regulations existing at the Site(s) and subject to advance confirmation, with the local contact designated by the Project Director or his/her designee (in writing), that such access will be available.

5.8 Protection From Damage. Contractor shall protect the Equipment from damage, destruction or loss caused by the acts or omissions of its employees, agents and Subcontractors, and shall protect the State's and Counties' real and personal property from injury arising from the acts or omissions of its employees, agents and Subcontractors in connection with the delivery and installation of the Equipment. Contractor shall repair any such damage, destruction, or loss at the Site.

5.9 Codes. Contractor shall comply with all applicable Federal, State, County and local codes, inspection standards and ordinances related to installing the Equipment which are existing at the time of installation. In the event that any Services performed by Contractor are subsequently found to be in violation of codes existing until the installation date for each item of Equipment, Contractor shall bring the Services into compliance at no additional cost.

5.10 Documentation.

5.10.1 Contractor shall provide one copy of all User Documentation for each unit of Equipment and Software leased or purchased, including updated versions thereof, which are useful and necessary to the State in its use of the Equipment and Software, at no additional charge to the State.

5.10.2 Contractor agrees to provide to the State all User Documentation, as required in the ITP, and updated versions thereof, which are necessary or useful to the State and Counties in the use of the Equipment or Software provided hereunder. Contractor shall supply to the State a camera-ready copy and an electronic copy (in a commercially standard format) of any Documentation that Contractor developed pertaining to the operation of the System. The State and/or Counties may duplicate such Documentation, as they deem necessary.

5.11 Supplies.

5.11.1 The State and Counties shall provide all supplies necessary for the operation of the Administrative Terminals. Supplies used by the State and Counties for the Administrative Terminals shall conform to Contractor's reasonable published Specifications. If Contractor does not publish Specifications for such supplies, the State and Counties shall be free to utilize any supplies that are advertised as appropriate for any piece of Equipment. Contractor shall supply all Card stock and supplies for use with Contractor supplied Card embossers and PIN selection and encryption devices.

5.11.2 Contractor shall supply all consumable supplies necessary for the operation of the EBT-only POS equipment supplied under this Agreement.

5.12 Equipment Product Substitution. If an Equipment component is withdrawn from the market and/or a new component is announced by Contractor during the Agreement term, a substitute or replacement component may be provided, subject to the following conditions:

5.12.1 The component meets or exceeds the Specifications without loss of any functionality;

5.12.2 The price of the Equipment component is no more than the component to be replaced if such substitute or replacement component meets the Specifications without loss of any functionality; and

5.12.3 If the substitute or replacement Equipment component exceeds the Specifications without loss of any functionality, the parties will agree in writing on its price; and

5.12.4 Substitution will take place only with the mutual consent of both parties, with such consent not unreasonably withheld by the State or Contractor.

6. LICENSED MATERIALS.

6.1 Grant. Contractor hereby grants to the State a nonexclusive, perpetual and irrevocable license to reproduce, publish, prepare derivative works based on, distribute, and use the Licensed Materials in conjunction with the Deliverables under this Agreement to agencies within the State and to the Counties. The Licensed Materials shall be used to fulfill the State's information processing needs in conjunction with the System.

6.2 Term. The license hereunder is granted as of the Execution Date and continues until the State or its assignee or transferee discontinue the use of the Licensed Materials. The State will destroy all copies of Licensed Materials, which has had its license terminated, within three months after such license termination. However, the State shall have the right to retain a copy of any such Licensed Materials for audit or archival purposes.

6.3 Title. Subject to the rights granted herein, Contractor and its suppliers shall hold all right, title and interest in the Licensed Materials.

6.4 Documentation. Contractor will provide two copies of the Licensed Materials Documentation for each Site that receives a copy of the Licensed Materials. Enhancements to the Licensed Materials and Documentation will be provided at no additional charge while Contractor is providing the EBT Services.

6.5 Copies. The State may make copies of the Licensed Materials and/or Documentation for meeting the State's back-up requirements and of its Documentation for use within the scope of this Agreement at no additional charge. The State will reproduce and include the copyright and other proprietary notices and product identifications provided by Contractor on such copies, in whole or in part, or on any form of the Licensed Materials or its Documentation.

6.6 Restrictions. Except as otherwise permitted in this Agreement, by Contractor in writing, by Contractor's third party licensors in writing, or as authorized in the applicable Specifications, the State agrees not to: otherwise copy, display, transfer, adapt, modify, or distribute the Licensed Materials (electronically or otherwise) to any third party except Counties, authorized contractors or retailers; reverse assemble or reverse compile the Licensed Materials; or lease the Licensed Materials or any copy of it.

7. DELIVERABLES AND SERVICES.

7.1 Deliverable Expectation Documents.

7.1.1 Contractor shall submit a DED to the State for each Deliverable required in this Agreement and in the Project Work Plan. The DED for each Deliverable is itself a Deliverable and is due for delivery to the State 30 days before the Deliverable is due in accordance with the terms of the Project Work Plan. Contractor shall submit the DED for the Project Management Plan, the first Deliverable under this Agreement, five days following the Execution Date.

7.1.2 Each DED will contain the following:

7.1.2.1 An outline of the Deliverable, table of contents, sample format and sample pages and general description of the information that will be contained in the Deliverable

7.1.2.2 Time frames for activities related to the Deliverable, including without limitation dates for the Deliverable consistent with the Project Work Plan Schedule;

7.1.2.3 Proposed State review timeframes for the Deliverable consistent with the Project Work Plan Schedule;

7.1.2.4 Contractor correction time frames for the Deliverable;

7.1.2.5 Deliverable objectives; and

7.1.2.6 Acceptance Criteria which is consistent with the requirements of this Agreement, prior Deliverables and communications between the parties.

7.2 Submission Process.

7.2.1 Each Deliverable submitted to the Project Director for review and Acceptance shall have a cover letter from the Project Manager and shall be addressed to the Project Director. The cover letter shall contain the following certification: "I certify that this Deliverable has been prepared in accordance with the relevant terms and conditions of the EBT Agreement." The cover letter shall also contain a certification that the Contractor used the internal Deliverable review process prescribed in the Quality Assurance Plan. Deliverables shall be signed as complete by the Project Manager and by a Contractor representative who is authorized to sign legal documents for the company.

7.2.2 Unless otherwise permitted in the Project Work Plan, work on subsequent Deliverables may not proceed prior to the State's formal Acceptance of the preceding Deliverables. However, if Contractor proceeds with work on subsequent Deliverables prior to such Acceptance of preceding Deliverables, with or without the State's approval, Contractor shall proceed with such work at Contractor's sole risk and understanding Contractor may need to repeat previously performed work without payment therefor by the State.

7.2.3 Contractor will provide all Deliverables in complete form no later than the dates indicated in the Project Work Plan. Deliverables must be presented to the State in a binder, single sided, double spaced and in 12 point Arial font. Contractor must make available all Deliverables on the Project LAN and supply at least one electronic copy on CD-ROM in the appropriate State-designated standard commercial software product, and the number of hard copies of the Deliverable(s) as agreed to in the DED. Each Deliverable shall include an Executive Summary.

7.2.4 Contractor shall prepare all Deliverables and Project correspondence using the standard project management, word processing, relational database management, presentation and spreadsheets products used by the State (currently Microsoft Office), at the version levels specified by the State. Contractor shall upgrade commercial software versions at no cost to remain compatible with the State.

7.2.5 Contractor shall utilize Contractor's expert knowledge and this Agreement as the basis of the Deliverables. Contractor shall retain backup copies in writing and on electronic media of all Deliverables until 30 days after termination or expiration of the Agreement and shall provide the State on its request with a copy thereof until that time. Contractor shall store the Project work papers by task numbers that have been assigned to the Project tasks corresponding to the Project Work Plan. In addition, Project workbooks will store work papers not related to specific task numbers. Storage will be located in the Contractor's workspace at the Project office in Sacramento. A copy of all Project work papers and Project workbooks shall be provided to the State. Project work papers and Project workbooks developed in connection with the Project are the property of the State.

7.2.6 By submitting a Deliverable, Contractor represents that, to the best of its knowledge, it has performed the associated tasks in a manner which will, in concert with other tasks, meet the Specifications stated or referred to in the Agreement. The parties acknowledge and agree that the State's Acceptance of a Deliverable indicates only that it has reviewed the Deliverable and detected no Deficiencies at that time and that the State's Acceptance of a Deliverable does not discharge any of Contractor's obligation to insure comprehensiveness, functionality, effectiveness or Confirmation of the System as a whole.

7.3 Deliverables and Services Acceptance Process.

7.3.1 Contractor shall deliver all Deliverables pursuant to this Agreement to the Project Director or his/her designee at the Facility for purposes of determining whether the State will give its Acceptance for such Deliverables. The State's review of Deliverables shall be in accordance with the time frames therefor set forth in the Project Work Plan. The State's review period will vary with the complexity and volume of the Deliverable, and will be agreed upon as part of the DED and Project Work Plan. Unless otherwise specified in the Project Work Plan or this Agreement, the State shall have at least 15 working days for such review, with the first day starting on the next working day after delivery.

7.3.2 State review and Acceptance of each Deliverable shall be based upon the following Deliverable quality standards, in addition to the Acceptance Criteria for the Deliverable:

7.3.2.1 The document must address all components required by the ITP, the Proposal, and any areas identified subsequently through meetings and planning sessions;

7.3.2.2 The document must address and be consistent with all components included in the Table of Contents and the draft outline as presented in the DED;

7.3.2.3 The document must be comprehensive in level of detail and quality consistent with the sample pages presented in the DED;

7.3.2.4 The document must be organized and professional;

7.3.2.5 The document must be consistent in style and quality. If the document is the composite work of many people within Contractor's organization, the document must be edited for style and consistency. Contractor shall certify in the cover letter that Contractor utilized the internal deliverable review process as prescribed in the Quality Assurance Plan and required by ITP Section 5.12.7, Standards for Acceptance of Deliverables; and

7.3.2.6 The overall utility of the Deliverable must meet the expectations of the State and support the purpose for which it was developed.

7.3.3 The State will provide Acceptance for the Deliverable or Service if it has no Deficiencies. However, if a Deficiency is found, the State shall give Contractor notice of its non-acceptance, with such notice delineating Deficiencies used as the grounds for the State's decision. Contractor shall promptly correct Deficiencies described in any notice(s) of non-acceptance from the State. Contractor shall then resubmit the Deliverable or re-perform the Service within five calendar days of receipt of such notice, or a longer period as approved by the Project Director. Rejection of a Deliverable or Service by the State does not allow for slippage of the Schedule regarding subsequent Deliverables or Services. After Contractor has corrected such Deficiencies, the State shall verify whether the Deliverable or Service lacks Deficiencies and in writing shall either give its Acceptance or not accept it following such review.

7.3.4 The State shall have the rights described in Section 22.2.4 if Contractor is unable to correct all Deficiencies in the Deliverables or Services within the number of days indicated in the Project Work Plan following the Deliverable's Delivery Date.

7.3.5 Contractor may not change a Deliverable that has received the State's Acceptance without the prior written approval of the State.

7.4 Project Management Plan.

7.4.1 Deliverable. The Project Management Plan shall be comprised of the proposed Project Management Plan submitted with the Proposal which Contractor shall revise with the State's assistance to reflect Project changes since its initial submission. The Project Management Plan shall contain all elements required in the ITP Section 5.6, including but not limited to a Project Work Plan, which includes staffing and organization activities, quality assurance activities and risk management activities. Contractor shall deliver the revised Project Management Plan to the Project Director for the State's review not later than 30 days after the Execution Date. The Project Management Plan shall be a Deliverable. Failure of the parties to agree upon this Project Management Plan and of the State to give its Acceptance therefor within 45 days of the Execution Date shall give the State the right to terminate this Agreement. Pending agreement on the Project Management Plan, the parties have agreed upon the milestone dates in Exhibit B, in addition to other dates described in this Agreement.

7.4.2 Updates. Contractor shall update the Project Management Plan regularly (no less than monthly), and the Project Work Plan portion thereof no less than weekly, and as otherwise necessary throughout the Project to accurately reflect the status of activities, tasks, events, Services, and projected Schedule therefor. Contractor will present the updated Project Management Plan at the monthly status meetings with the Project Coordinator, Project Director and other executive State staff as described in Section 4.2.3. Any such update changes must be agreed upon in writing by the State prior to their incorporation into the Project Management Plan. However, notwithstanding agreement on such updates, Contractor shall remain liable for liquidated damages and other damages arising as a result of its failures to perform in accordance with the original Project Work Plan.

7.5 Dispute Resolution Procedure. Contractor shall develop, as a Deliverable, a Dispute Resolution Manual to detail the process and procedures it will use to manage disputes received by the State of California

Customer Service call center, including Cardholder disputes and Acquirer disputes. The dispute resolution procedures shall include timelines and escalation levels, to include all parties in the dispute, including but not limited to State and County staff. The dispute resolution procedures shall meet or exceed the guideline described in ITP Section 6.11.2.4.

7.6 Protection From Damage. Contractor shall continuously protect all Deliverables and backups therefor from damage, destruction or loss resulting from or caused by the acts or omissions of Contractor in connection with the Services. During the period Deliverables are in transit and in possession of Contractor, its carriers or the State prior to their Acceptance, Contractor and its insurers, if any, will relieve the State of responsibility for all risks of loss or damage thereto, unless such loss or damage are caused by the negligence or misconduct of the State. After the State provides Acceptance for a Deliverable, the risk of loss or damage shall be borne by the State, except loss or damage attributable to Contractor's acts or omissions.

7.7 EBT Card and Card Sleeve. Contractor shall design and produce the California EBT Card. The State shall provide Card and sleeve design concepts to Contractor. Contractor shall work with the State and shall submit at least three Card and sleeve design samples as Deliverables to the State, based on the concepts provided by the State and the State shall make the final selection of Card and sleeve design according to the Schedule in the Project Work Plan. Additional Card design samples may be required by the State if the initial three are unacceptable to the State. The final Card design Deliverable shall be submitted to the State for Acceptance according to the Schedule in the Project Work Plan.

8. DESIGN PHASE.

8.1 Requirements Analysis and Requirements Definition.

8.1.1 Contractor shall conduct requirements analysis sessions with the State Project team and other representatives to review, clarify, and refine the State's EBT requirements. These sessions shall address any outstanding requirements or any changes proposed by Contractor. Contractor is responsible for preparing agendas for distribution prior to each session. In addition, Contractor shall prepare session minutes documenting the issues, recommendations, decisions, and action items discussed in each session.

8.1.2 Contractor shall provide a Requirements Definition Deliverable at the conclusion of the requirements analysis sessions in accordance with the Project Work Plan. This Requirements Definition shall present the decisions and outcomes of the requirements analysis sessions. Upon receipt of State Acceptance of the Requirements Definition, the contents of the Deliverable will serve as foundation for both the General System Design and Detailed System Design.

8.2 Demonstration of Existing System Functionality. If Contractor has an operational EBT or EFT system at the Execution Date that may become the basis for meeting the requirements of the ITP, Contractor shall provide a demonstration of that system's functionality and operations, as early as possible in the Design Phase, according to the Project Work Plan Schedule. This demonstration shall be separate from the Functional Demonstration described below.

8.3 JAD Meetings. Contractor shall lead JAD meetings with State and County staff to develop and finalize User requirements and System processing Specifications necessary to develop the General System Design Deliverable. Contractor is responsible for preparing agendas for distribution prior to each session. In addition, Contractor shall prepare session minutes documenting the issues, recommendations, decisions, and action items discussed in each session.

8.4 General System Design. Contractor shall prepare a General System Design Deliverable which will include a detailed description of the System's functionality, operations, and processes. Contractor shall prepare the General System Design in accordance with the Project Work Plan and Requirements Definition. The General System Design shall be developed according to the System requirements specified in the ITP, the Proposal, and the Requirements Definition, and input received and documented during JAD meetings. The General System Design will be revised as

necessary based on State and County comments and resubmitted in accordance with the terms of Section 7.3. The General System Design shall describe, at a minimum:

- 8.4.1 A general System overview;
- 8.4.2 The operating environment;
- 8.4.3 Procedures and workflow;
- 8.4.4 Detailed functional description of all operational components of the System;

and

8.4.5 Description of operating procedures and protocols, including those related to batch and online Interface operations, transaction processing, reporting, security, and Settlement and Reconciliation.

8.5 General System Design Review. Contractor shall conduct a General System Design review with the State Project team and County representatives. The review shall provide participants with a walkthrough of the General System Design and serve to verify the accuracy and completeness of the System design based on requirements specified in the ITP, Contractor's response thereto, the approved Requirements Definition, and input received during JAD sessions. In planning and conducting the General System Design review, Contractor shall perform, at a minimum, the following tasks:

- 8.5.1 Develop a plan for the review;
- 8.5.2 Schedule review team participants for those persons identified by the State;
- 8.5.3 Conduct the General System Design review; and
- 8.5.4 Incorporate agreed upon changes into the General System Design.

8.6 Detailed System Design. Contractor shall develop a Detailed System Design Deliverable, describing the total System configuration. Contractor shall prepare the Detailed System Design in accordance with the Project Work Plan. The Detailed System Design will be revised as necessary based on State and County comments and resubmitted in accordance with the terms of Section 7.3. In addition, Contractor shall revise the Detailed System Design based on System design changes identified, and approved in writing by the State, during System development, and/or operations. The Detailed System Design will include at a minimum:

- 8.6.1 All Equipment, Software, and communications network design documentation;
- 8.6.2 Function and data completeness for the System requirements, including but not limited to response time;
- 8.6.3 Function validity for previously defined requirements;
- 8.6.4 Recovery completeness and validity;
- 8.6.5 Data communications requirements;
- 8.6.6 Database architecture;
- 8.6.7 Data elements and flows;
- 8.6.8 Batch and on-line processing;
- 8.6.9 Database load processes;

8.6.10 Interface requirements; and

8.6.11 System security.

8.7 Detailed System Design Review. Contractor shall conduct a Detailed System Design review with the State Project team and County representatives. The review shall provide participants with a walkthrough of the Detailed System Design. In planning and conducting the Detailed System Design review, Contractor shall perform, at a minimum, the following tasks:

8.7.1 Develop a plan for the review;

8.7.2 Identify and schedule review team participants;

8.7.3 Conduct the Detailed System Design review; and

8.7.4 Incorporate agreed upon changes into the Detailed System Design.

8.8 System Documentation or Plans. Based upon the General System Design and Detailed System Design, Contractor shall develop the System Documentation, or update plans to develop such Documentation that were originally submitted with the Proposal. The required Documentation and plans shall meet the requirements of the ITP, the Proposal and the Agreement, and shall include but not be limited to the following Deliverables:

8.8.1 Contractor shall revise, as necessary, and resubmit the Settlement and Reconciliation Plan that was submitted with the Proposal. This Deliverable shall be submitted in accordance with the Project Work Plan Schedule, but no later than the Detailed System Design;

8.8.2 Contractor shall provide a System Security Plan, in accordance with the Project Work Plan Schedule, but no later than the Detailed System Design;

8.8.3 Contractor shall provide a Backup, Disaster Recovery, and Business Continuation Plan, in accordance with the Project Work Plan Schedule, but no later than the Detailed System Design;

8.8.4 Capacity Plan. Contractor shall revise, as necessary, and resubmit the Capacity Plan that was submitted with the Proposal. This Deliverable shall be submitted in accordance with the Project Work Plan Schedule, but no later than the System Test Plan; and

8.8.5 Change Management Plan. Contractor shall develop and submit for approval a Change Management Plan in conjunction with the Detailed System Design. The Change Management Plan shall be developed with input from all Counties, SAWS consortia and respective system vendors to insure that the Deliverable provides a framework for global change management.

9. DEVELOPMENT PHASE.

9.1 General. Contractor shall manage and complete all System development tasks necessary by Contractor to perform and successfully complete each of the System tests and demonstrations described in ITP Section 5.14, the System Test Plan, and this Agreement. Contractor shall complete any necessary System modifications identified as a result of testing during the Development Phase, and shall revise any pertinent System Documentation to reflect System modifications. Required modifications and Documentation shall be completed in accordance with the Project Work Plan.

9.2 Additional System Documentation.

9.2.1 General.

9.2.1.1 Contractor shall thoroughly document the System. Design documents, file descriptions, database descriptions, the flow of data, all processes and logic shall be provided for Acceptance by the State prior to programming for the System. All maintenance Services affecting the System shall also be thoroughly documented by Contractor. The Contractor shall provide the State with up-to-date reference manuals promptly following completion of System changes.

9.2.1.2 Contractor shall supply updates (the latest available to its other commercial customers) to the Equipment, Software and training Documentation for the term at no additional cost. The State must approve all updates supplied.

9.2.1.3 The description, capability, operation, administration and maintenance of all Software and Equipment must be fully documented in the form of professional quality, printed user manuals. Appropriate Documentation updates shall be provided at no cost to the State as changes occur. Documentation must at all times reflect the current System functionality and capabilities, operating procedures, and limitations of the System. At a minimum, Contractor shall provide the manuals described below which must receive the State's Acceptance.

9.2.2 System Operations Manual. Contractor shall prepare a System Operations Manual to support State and County operation of the System as a Deliverable. Each Administrative Terminal shall have a complete set of all books and reference materials which pertain to that workstation and are required for training and Operations. Four complete additional sets of all reference materials and books for the System, both for training and operations, shall be provided by Contractor to the State.

9.2.3 Interface Procedures Manual. Contractor, in conjunction with the State and Counties, shall prepare an Interface Procedures Manual as a Deliverable, detailing all eligibility and financial System Interface processes, file transfers, and problem resolution/escalation plans.

9.2.4 Reports Catalog and Manual. Contractor shall provide a Reports Catalog and a Reports Manual as Deliverables describing all standard Reports to be generated by Contractor along with instructions to access reports via on-line terminals. The Reports Manual will also provide a brief description of the daily transaction history files to be provided to the Counties for internal report generation.

9.2.5 Retailer Operations Manual. Contractor shall prepare a Retailer Operations Manual as a Deliverable and upon State Acceptance, provide it to all Retailers. The Retailer Operations Manual shall present an overview of: EBT; merchant options for participation in EBT; POS Equipment functionality, installation, and maintenance; on-line transaction processing; off-line transaction processing; management functions; retailer customer service; settlement; reporting; and information about where Recipients should call to receive customer service or to report a lost Card.

9.3 System Test Plan. Contractor shall develop a System Test Plan to provide a detailed description of each Acceptance test required to ensure that the System, in whole and in part, complies with the Specifications. The System Test Plan shall meet the requirements of ITP Section 5.14 and this Agreement.

9.4 Functional Demonstration.

9.4.1 Contractor shall conduct a Functional Demonstration of EBT System functionality and operations in accordance with the ITP. The Functional Demonstration shall address all aspects of the System in accordance with the Detailed System Design.

9.4.2 The Functional Demonstration shall occur no later than six weeks prior to the scheduled date for the System Acceptance Test as specified in the Project Work Plan. The Functional

Demonstration shall be conducted at a State supplied facility in Sacramento, California and shall include State, County and Federal participants designated by the State.

9.4.3 Contractor shall prepare a report of the Functional Demonstration, including any System modifications that were identified to be needed for the System to perform in accordance with its Specifications. Outstanding issues resulting from the Functional Demonstration will be tracked, resolved and documented as part of the report. Contractor shall be required to re-perform the Functional Demonstration in the event major issues are identified by the State that necessitate revision to the original Functional Demonstration. The State shall have sole discretion as to the need to re-perform the Functional Demonstration. The State and Contractor shall not proceed with performing Acceptance Tests until the Functional Demonstration has been successfully completed and Acceptance provided by the State.

9.5 Interface Development. Contractor shall develop the Interfaces in accordance with the Interface Specifications, the Detailed System Design, the Project Work Plan and the terms of the Agreement.

9.5.1 Interface Specifications Deliverable. Contractor shall update and revise the Interface Specifications. Revisions shall be in accordance with JAD meeting decisions and the Detailed System Design. Contractor shall submit the revised Interface Specifications Document Deliverable to the State for final Acceptance prior to release to each County.

9.5.2 Interface Planning Guide. Contractor shall develop an Interface Planning Guide Deliverable to assist the Counties and/or Eligibility System vendor(s) with the design and development of the County portion of the Interface.

9.5.3 Eligibility System Interfaces.

9.5.3.1 Contractor shall conduct JAD meetings for the purpose of discussion and definition of Interface requirements. JAD meetings will be conducted in accordance with the Project Work Plan Schedule, with meetings held at reasonable and appropriate times for each Eligibility System. County Interface options will be discussed and decisions finalized prior to development of the Detailed System Design. Contractor shall conduct subsequent Interface JAD meetings and discussions as may be required to insure that each County has made necessary decisions with respect to options and that all requirement issues are addressed.

9.5.3.2 Contractor shall work closely with the State's designated staff member and with each County and/or the Eligibility System vendor to assist the County in developing its side of the Interface on Schedule and in accordance with the Specifications. Contractor shall participate in periodic meetings with the County and/or Eligibility Systems vendor(s) to assist in coordination of design and development efforts. Any design or logistical issues resulting from these meetings will be documented and reported to the State as part of the Weekly Status Reports and Monthly Status Reports.

9.5.4 Settlement and Reconciliation Interfaces. Contractor shall meet with representatives of each County that elects to use the System for cash benefit issuance to define Interface requirements necessary to accomplish Settlement and Reconciliation. Meetings will be held in accordance with the Project Work Plan Schedule. County Interface requirements and decisions will be incorporated into the Detailed System Design.

9.5.5 State and Federal Interface Development. Contractor shall design, develop, install and test Interfaces between the System and the State and Federal administrative Sites as required in the ITP. State Interfaces shall include administrative terminal access as required by the Detailed System Design Document. Federal Interfaces shall include AMA, ASAP, REDE, FNS reconciliation and redemption as required by the Detailed System Design.

9.6 Contractor Internal System Tests.

9.6.1 Contractor shall perform its internal System Tests in accordance with the terms of the System Test Plan.

9.6.2 Upon completing the construction and pre-testing of each Interface, as part of its internal System Tests, Contractor shall pre-test that Interface together with the System to confirm that the applicable functionality in the entire System performs in accordance with applicable Specifications. The testing will include, without limitation, passing Interface files between the Federal, State and County systems and the System to ensure each Interface is working in accordance with applicable Specifications and the Project Work Plan. Contractor shall be responsible for conducting all Interface tests in accordance with the requirements of the Project Work Plan and ITP Section 5.14.2. Testing shall be in strict compliance with the test scripts and System Test Plan, both of which have received the State's Acceptance. Contractor shall not allow any Interface to move into production until the State has given its Acceptance based on the Interface test.

9.7 Acceptance Tests for Equipment and Software. The State shall perform Acceptance Tests for all Equipment and Software supplied by Contractor under this Agreement, including but not limited to all Equipment and Software initially installed, Enhancements, any such Equipment or Software which has been altered by Contractor to satisfy State requirements, and any substitute Equipment or Software provided by Contractor in lieu thereof. The purpose of Acceptance Tests is to ensure that the Equipment and Software operate in accordance with the Specifications. The specific procedures for the accomplishment of such Acceptance Tests are contained in Section 9.9.

9.8 System Interface Acceptance Tests.

9.8.1 Contractor shall conduct System Interface Acceptance Tests between the System, each Eligibility System, each County financial system (for Counties using the System for cash benefit issuance) and County Administrative Terminals. The System Interface Acceptance Tests will be in accordance with the Detailed System Design and the System Test Plan. The Interface Acceptance Tests shall include both on-line and batch processing. The System Interface Acceptance Tests shall also include back-up and security testing.

9.8.2 Contractor shall conduct Interface Acceptance Tests between the System and the Acquirer(s) at initial Implementation and any new Acquirer certified during the term of the Agreement in accordance with the System Test Plan and Detailed System Design.

9.8.3 Contractor shall conduct Interface Acceptance Tests between the System and the State for support of administrative terminal access at the locations designated in the Detailed System Design.

9.8.4 Contractor shall conduct Interface Acceptance Tests between the System and the Federal agencies defined in the Detailed System Design. The Federal Interfaces shall include AMA, ASAP, REDE and the FNS Regional Office in San Francisco.

9.9 System Acceptance Test.

9.9.1 The State and Contractor shall conduct a System Acceptance Test in accordance with the ITP and the approved System Test Plan to confirm that the System performs in accordance with its Specifications. The scope of the System Acceptance Test shall include but not be limited to all functional and operational components of the System as detailed in the Detailed System Design. The System Acceptance Test shall include a test of the Interface between the System and the financial institution providing settlement services. The System Acceptance Test shall also include a test of the Interface between the System, the Pilot County Eligibility System, and the Pilot County financial system.

9.9.2 The State shall begin the System Acceptance Test after an orientation by the Contractor to the Facility where the System Acceptance Test will be conducted, and a review of the State of California

System Test Plan so that each participant understands his or her role, and quality control procedures are understood. At the end of each test cycle (logical business day), Contractor and all participants shall review test results and batch output and discuss any issues resulting from that portion of the System Acceptance Test. Contractor shall be flexible with respect to the testing schedule and shall insure that it dedicates appropriate resources and personnel for the duration of the testing. As part of the Acceptance Tests, the State shall be entitled to pursue alternative testing scenarios, which may not be detailed in a test script or in the System Test Plan, in order to determine whether the System performs in accordance with its Specifications.

9.9.3 Participation in the System Acceptance Test shall include State, County and Federal representatives. Contractor shall fully cooperate with the FNS evaluation contractor(s) and contractors the State or Counties may elect to utilize.

9.9.4 The System Acceptance Test shall be conducted at the location which provides the resources and facilities best suited to accomplish the System Acceptance Test. The State and Contractor shall agree upon the location before Acceptance of the System Test Plan. Contractor's facility shall accommodate the reasonable needs of the Acceptance Test and shall afford full use and access to all necessary testing systems and hardware. Contractor shall provide state-of-the-art tools for the System Acceptance Test, e.g., transaction generating software.

9.9.5 The State shall be responsible for travel costs for all State and County representatives. Contractor shall be responsible for all costs associated with the testing facility and test environment.

9.9.6 In the event the System fails the System Acceptance Test, the System shall be re-tested in part or in whole, as provided for by the System Test Plan. The State shall have sole discretion in deciding the need for re-testing. In the event State and county representatives must travel to the testing facility a second or subsequent time for re-testing, Contractor shall reimburse the State for associated expenses.

9.9.7 The parties shall adhere to the approved Acceptance Test scripts and document results in accordance with the approved System Test Plan. All testing Deficiencies shall be thoroughly documented.

9.9.8 If Acceptance Testing has not been successfully completed with System Acceptance from the State within the time periods described in the Project Work Plan, the State shall have the option to terminate this Agreement in accordance with the rights and remedies described in Section 22.2.5.

9.9.9 Contractor agrees that, subsequent to completion of successful System Acceptance Tests and Acceptance of the System by the State, the reliability and/or System Performance Standards will be met throughout the full term of the Agreement.

9.10 System Test Reports. Contractor shall submit to the State as a Deliverable a System Test Report within ten days after the completion of each System Acceptance Test conducted by Contractor. The Test Report shall describe the test conducted, test results, and any additional action(s) necessary to successfully complete the test. The Test Report shall be amended upon completion of any necessary subsequent action(s) to describe both the action(s) and outcome(s). Amendments will continue as necessary until the test is successfully completed to the satisfaction of the State and FNS, based on the Acceptance Criteria described in the System Test Plan. Contractor must obtain Federal System Certification from FNS after successful completion of System Testing and modifications, according to the Schedule of the Project Work Plan.

9.11 Updates to Detailed System Design. Contractor shall submit an updated Detailed System Design as a Deliverable and other supporting documents and plans, as required to reflect necessary System modifications identified during the Development Phase, including without limitation during System Tests. Contractor shall submit the revisions to all required System Documentation for Acceptance by the State prior to beginning the Pilot Implementation.

10. ACQUIRER SERVICES.

10.1 Develop Third Party Processor, POS and Network Certification Plan. Contractor shall prepare a plan for recruiting participation and certifying ATM networks, pre-existing retailer POS equipment and Third Party Processors.

10.2 Acquirer Interface and Certification Specifications. Contractor shall allow any qualified Retailer or Third Party Processor to use its own EFT system and equipment to participate with the System. Contractor shall develop and provide Interface and certification specifications for participation with the System to all interested Acquirers Statewide no later than four months prior to Pilot Implementation. Contractor shall complete certification of all Acquirers with a signed Retailer Agreement or Third Party Processor Agreement no later than one month prior to Implementation in the Region.

10.3 Develop Model Agreements. Contractor shall enter into agreements with Acquirers participating with the System. Contractor shall participate in meetings with organizations representing California grocers and Retailers, and other stakeholders as agreed to by the Project Director, regarding the terms of Retailer Agreements with Retailers operating in California and the Third Party Processor Agreements with Third Party Processors operating in California. Contractor shall develop model Retailer Agreements and Third Party Processor Agreements for approval by the State and FNS.

10.4 Acquirer Outreach. Contractor shall contact all FNS authorized Retailers (including but not limited to group homes, farmers' markets and other non-traditional Retailers), as well as Third Party Processors, ATM networks and transaction Acquirers as appropriate, within each County Project area at least five months prior to the start of Implementation activities within the County. The County Project area shall include Retailers within three miles of the County borders, as well as areas identified by the County welfare department or local stakeholders, who are designated as such by the State, as part of the primary shopping area for Recipients in the County. Contact shall include informational letters and regional meeting(s) to discuss, at a minimum:

- 10.4.1** The introduction to EBT;
- 10.4.2** Program participation within the Region (i.e., FSP, CalWORKs, and other programs);
- 10.4.3** State Implementation Schedule;
- 10.4.4** Acquirer participation guidelines (e.g., no fee for FSP transactions, lane equipage requirements and other guidelines);
- 10.4.5** Acquirer participation options (e.g., direct connect and Third Party Processor);
- 10.4.6** Certification and testing requirements;
- 10.4.7** Voucher transaction processing guidelines; and
- 10.4.8** Retailer Agreements and terms.

10.5 Operating Rules and Operations Manual. Contractor shall develop operating rules for California in accordance with Quest Operating Rules and the specific options and requirements adopted for California. Contractor shall develop an Operations Manual to detail procedures for Retailers and other Acquirers.

10.6 BINs. Contractor shall use its best efforts to have ATMs and third-party processors include all other operational EBT systems' BIN numbers when the State BIN number is loaded.

10.7 Signage. Contractor shall develop window decals and signage, in a standard format, in accordance with the Quest Operating Rules Graphics Standards Manual. The decals shall be produced

in sufficient quantity to provide signage at each store entrance for all participating EBT-only Retailers, and other Acquirers that request such standard-format signage.

10.8 POS Deployment Plan. Contractor shall develop a County-by-County plan that provides for deployment of POS terminals to provide FNS authorized Retailers access to the System. This POS Deployment Plan shall be a Deliverable and shall also include POS deployment to non-FNS Retailers for the provision of reasonable cash access. Contractor shall provide deployment of POS terminals based upon the approved Project Work Plan Schedule and the Statewide Implementation Plan. Contractor shall submit the POS Deployment Plan in conjunction with the Statewide Implementation Plan, 90 days after the Execution Date. The plan shall include at a minimum:

- 10.8.1** Deployment logistics;
- 10.8.2** Schedule;
- 10.8.3** Wiring;
- 10.8.4** Telecommunications requirements ;
- 10.8.5** Test transactions; and
- 10.8.6** Supplies (ribbon and printer paper).

10.9 Border Stores. Contractor will not impose access, gateway or transaction charges for Recipients using their EBT Cards at Border Stores to receive benefits from the System.

10.10 Third Party Processor and ATM Network Certification. Contractor must certify that Third Party Processor and ATM network systems comply with timeliness, availability, and accuracy standards set forth in the Quest Operating Rules, FNS Food Stamp EBT System regulations, the Third Party Processor and ATM Network Certification Plan, the Detailed System Design and the other Specifications. The certification will be conducted in a test environment and shall be conducted in compliance with the applicable test script included in the System Test Plan. That test script shall provide for a full exercise of all transaction sets and back-end processing. The parties agree to the following as part of this certification requirement:

10.10.1 Contractor is responsible for the certification of Third Party Processor and ATM network system performance, which includes the development and implementation of certification agreements, policies and procedures. Contractor Third Party Processor and ATM network certification requirements, policies and procedures are subject to the State review and approval.

10.10.2 Contractor shall provide certification requirements to all Third Party Processors upon the request of and/or at a time specified by the State. At least 30 days prior to the Implementation of the Pilot, a County or district office in Los Angeles, Contractor shall notify the State of any Third Party Processor(s) that are known by Contractor to be serving the area and that has not yet been certified.

10.10.3 Contractor shall accommodate requests for Third Party Processor system certification testing within seven days of the receipt of a request for system certification from a Third Party Processor. Once a Third Party Processor system has successfully completed system certification testing and properly executed a Third Party Processor Agreement, Contractor shall promptly certify the Third Party Processor as having met Contractor's EBT certification requirements.

10.10.4 Contractor shall seek the State's advice when it becomes necessary to prioritize the scheduling of Third Party Processor system certification requests. Contractor shall require each Third Party Processor to comply with all Federal regulatory and Quest Operating Rules performance standards.

10.10.5 During the Operational Phase of the Project, Contractor shall notify the State upon receipt of a certification request from a prospective Third Party Processor or ATM network to participate as an Acquirer. The State shall reserve the right to observe or participate in certification testing. Upon successful completion of a certification test for each new Acquirer, Contractor shall notify the State of the results of the test and provide a written report and recommendation. Contractor shall not allow the prospective Third Party Processor or ATM network to move into the production environment and be used with the System without prior written State approval.

10.10.6 In the event Contractor has an existing interface with a Third Party Processor, the certification may be modified to test those aspects of the interface which are newly introduced for California in cooperation with the existing parts of the interface.

10.10.7 Subsequent to Contractor's certification of a Third Party Processor system, if the Third Party Processor system experiences failures and system outages, Contractor shall contact the Third Party Processor and require it to resolve system performance problems. In the event that the Third Party Processor is unable to correct such failure within 60 days of notification by Contractor, Contractor may take action to decertify the Third Party Processor after having obtained the State's consent, which shall not be unreasonably withheld.

10.10.8 Contractor shall send notification to each Third Party Processor and to all Retailers using that Third Party Processor that the Third Party Processor may be decertified for failure to maintain satisfactory system performance. The notice to Retailers shall also include information about other Third Party Processors maintaining satisfactory system certification and performance. In the event the Third Party Processor is to be decertified, Contractor shall install EBT-only terminals as a last resort in those Retailer Sites where all reasonable efforts to convert the Retailers to another Third Party Processor have failed.

11. IMPLEMENTATION

11.1 General. Contractor shall perform all tasks and provide all Equipment, materials and Deliverables required to accomplish Statewide Implementation of the System, in accordance with the Statewide Implementation Plan. Following Pilot Acceptance, Contractor shall begin to perform its other Implementation Services in accordance with the Project Work Plan. Implementation Services will end upon completion of Implementation in all Regions.

11.2 Statewide Implementation Plan.

11.2.1 Based upon the Implementation Plan submitted with the Proposal, Contractor shall finalize a Statewide Implementation Plan, as a Deliverable, with input from the State, the Counties and other stakeholders, to reflect the final Implementation approach, work plan, and Schedule. The Statewide Implementation Plan shall be delivered to the Project Director within 90 days after the Execution Date. The State shall have 60 days to review and give Acceptance of or reject the Statewide Implementation Plan pursuant to the proceeding described in Section 7.3. The Statewide Implementation Plan shall contain all elements required in the ITP Section 5.7, including at a minimum, the following:

11.2.1.1 Implementation Approach. Contractor shall consider input from the State, individual Counties and County consortia in developing a final Implementation approach, describing the organization and sequencing of County Implementations. The Implementation approach shall provide for concurrent County Implementations and geographic coordination of Implementation in neighboring Counties. As a minimum, Contractor shall include in the Implementation approach County readiness, County planning and installation, and County Implementation tasks and Deliverables described in the ITP and in the Proposal.

11.2.1.2 Implementation Work Plan and Schedule. With consideration of the Implementation approach, selection of cash EBT by Counties, and Schedule requirements from the State, County consortia and individual Counties, Contractor shall finalize the Statewide Implementation Work Plan and Schedule. The Implementation Work Plan and Schedule shall describe all tasks and

milestones, assign dates to all tasks, readiness checkpoints and Deliverables, and assign Staff and delineate work hours for all tasks, readiness checkpoints, and Deliverables.

11.2.1.3 County Implementation Work Plan Template. Contractor shall include a County Implementation Work Plan Template that shall include all Contractor and County tasks and Deliverables necessary to implement the System and Services in a County. At the beginning of Implementation in each County, Contractor will obtain input from the County and will develop a customized County Implementation Work Plan for the County, based on the County Implementation Work Plan Template.

11.2.1.4 Pilot County Implementation Work Plan. The Pilot County Implementation Work Plan shall be based upon the County Implementation Work Plan Template. In addition to the tasks and Deliverables from the County Implementation Work Plan Template, the Pilot County Implementation Work Plan shall include all tasks, Deliverables and readiness checkpoints for the successful Implementation of the Pilot County including Pilot preparation, Pilot Implementation, Pilot operations, Pilot demonstrations, analysis of Pilot performance and Pilot Evaluation.

11.2.1.5 Readiness Determination. Contractor shall identify checkpoints where the State will determine the readiness of Contractor to begin Implementation activities or continue Rollout. Contractor shall describe the appropriate timing of checkpoints to provide the State sufficient time to notify all appropriate parties of project delays, and indicators of progress at each checkpoint. At each checkpoint included in the Implementation Work Plan and Schedule, Contractor shall evaluate and document the checkpoint indicators and submit a report for Acceptance by the State. Contractor shall request Acceptance from the State to proceed with Implementation and State shall respond with its Acceptance or rejection pursuant to the procedure in Section 7.3 within five business days after receipt of Contractor's request.

11.3 County Implementation Work Plan. Contractor shall use the County Implementation Work Plan Template to create a County-specific Implementation work plan for each County. During the first 30 days of each County's Implementation planning, Contractor shall work with the State and County to finalize the County Implementation Work Plan. Contractor shall complete all of Contractor's Implementation tasks and Deliverables as defined by and as scheduled in the County Implementation work plans, and will assist the Counties as necessary in completing their Implementation tasks and Deliverables.

11.4 Implementation Live Demonstration.

11.4.1 Contractor shall conduct a Live Demonstration of the System prior to Pilot Implementation. The Live Demonstration shall be conducted in the Pilot County and in accordance with the approved System Test Plan and shall include but not be limited to Card production, Card issuance, transaction processing at Sites selected by the State, settlement, reconciliation and reporting.

11.4.2 The Live Demonstration shall be conducted in an on-line production environment using one or more actual Retailer Sites. Full cycle processing shall occur, including but not limited to settlement. Except as specifically provided herein, Contractor shall organize all aspects of the Live Demonstration, including solicitation of Retailers to participate in the Live Demonstration. In the event actual Recipients are utilized for the Live Demonstration, the State will be responsible for selecting volunteer Recipients. In the event that one or more demonstration EBT Cards and accounts are to be utilized for the Live Demonstration, Contractor shall be responsible for creating these accounts and for clearing of these demonstration accounts from the production data base prior to Implementation.

11.4.3 Program Benefits used for the Live Demonstration will be the responsibility of the State. Contractor shall return to the State any Benefit dollars held by Contractor subsequent to completion of the Live Demonstration. To the extent possible, all settlement parties shall be held to a zero settlement position, except that actual transaction fees required to execute the Live Demonstration shall be paid by the State.

11.4.4 The System Test Plan shall include a test script for the Live Demonstration. That script shall include balance inquiry checks through the ARU.

11.4.5 Contractor shall conclude the Live Demonstration with a debriefing of all participants and a review of any issues or Deficiencies resulting from the Live Demonstration. Contractor shall submit a written report of the Live Demonstration within ten days of its completion. The successful completion of the Live Demonstration will be required before Pilot Implementation begins.

11.5 Pilot.

11.5.1 Pilot Preparation. Contractor shall perform all tasks required to prepare the Pilot County for operation, demonstration and evaluation of the System in accordance with the approved Pilot County Implementation Work Plan. Contractor's preparation shall include, but not be limited to the following activities:

11.5.1.1 Work with the Pilot County to define the method for Conversion of the active Caseload(s) to the System and for integration of County operations to accommodate the System. Contractor shall update the Statewide Implementation Plan to reflect the process elected by the Pilot County;

11.5.1.2 Survey each Pilot County Site and Training/Card issuance Site receiving EBT Equipment to determine Site preparation requirements for electrical outlets, data cabling, wiring closet location and cabling rack installation;

11.5.1.3 Perform all Site preparation tasks required to ready Pilot County Sites and Training/Card issuance Sites for installation of computer and telecommunications Equipment; and

11.5.1.4 Install and test all Equipment including communications lines, communications Equipment, Administrative Terminals, POS Equipment, Training Site Equipment, and Card issuance Equipment.

11.5.2 Pilot Implementation and Operations. In accordance with the Statewide Implementation Plan and the Pilot County Implementation Work Plan, Contractor shall perform all tasks required to implement and operate the System in the Pilot County. Pilot County operations shall begin no later than 10 months after the Execution Date.

11.5.3 Pilot Evaluation.

11.5.3.1 After a minimum of 45 days of Pilot County operations and before a maximum of 90 days of Pilot County operations, and following Contractor's Confirmation that the System meets Performance Standards and the other Specifications Contractor shall notify the Project Director that the Pilot Evaluation can be started. Contractor's notice to the Project Director shall include performance analysis results and other documentation obtained during Pilot operations to justify starting the Pilot Evaluation. Before 90 days of Pilot operations or earlier, if the State determines that performance of the Pilot operations meets Performance Standards and the other Specifications for the System, the State will authorize the start of the Pilot Evaluation.

11.5.3.2 The Pilot Evaluation will be conducted by the State in conjunction with Contractor, State's Independent Verification and Validation contractor and the Pilot County. The State shall review and evaluate the results of Pilot Operations and the functioning of all aspects of the System including Interfaces, Training, Card issuance and activation, transaction processing, Retailer management, Settlement, and Reconciliation, Reporting, System security, and the participation of all stakeholders.

11.5.3.3 The Pilot Evaluation shall continue for up to two months or such longer period as is required by the State to evaluate the Pilot Evaluation criteria and test results during which the functionality, Performance Standards and other Specifications for the System set forth in this Agreement have been met during the Pilot operations.

11.5.3.4 During Pilot Evaluation, Contractor shall provide the State all demonstrations and performance analysis results necessary for the State to determine whether the System meets the Specifications, including but not limited to the Performance Standards. As required by the State, Contractor shall assist the State in evaluating Pilot operations.

11.5.4 Pilot Evaluation Report. The State shall conclude the Pilot Evaluation and complete a Pilot Evaluation Report no later than two months following the completion of the Pilot operations period. The Pilot Evaluation Report shall describe any System Deficiencies, and shall include specific requirements for System changes to be made by Contractor before further Rollout.

11.6 System Modifications and Documentation. Contractor shall complete any necessary System modifications identified through the Pilot Evaluation and shall revise any pertinent System Documentation to reflect System modifications prior to Pilot Evaluation Acceptance. Required modifications and Documentation shall be completed in accordance with the Project Work Plan. The State will provide Pilot Evaluation Acceptance for the System following the Pilot Evaluation if the System has no Deficiencies following the completion of all required System modifications and Documentation by Contractor.

11.7 Inability to Correct Deficiencies. The State shall have the rights and remedies described in Section 22.2.7 if Contractor is unable to correct all Deficiencies in the System within the number of days indicated in the Project Work Plan during the Pilot Evaluation.

11.8 Eligibility System Interface Acceptance Testing and Pilots.

11.8.1 Contractor shall provide an Acceptance Test and Eligibility System Pilot for each new Eligibility System Interface added to the System.

11.8.2 Contractor shall meet and successfully complete all Eligibility System Acceptance Test requirements as defined in the System Test Plan, before an Eligibility System Interface is first implemented in a County. Before Benefits are issued in each County, Contractor shall assure that the Eligibility System Interface used by the County has been developed, tested by, and received the Acceptance of the State.

11.8.3 Contractor shall allow additional time and resources in the Implementation Work Plan and Schedule for an Acceptance Test and Eligibility System Pilot period in the first County that implements an Eligibility System Interface. The Implementation Work Plan and Schedule shall identify those County Implementations that are serving as Eligibility System Pilots.

11.8.4 Upon completion of each Eligibility System Pilot, Contractor shall submit a written assessment of County EBT operations and performance, and a written report of indicators regarding Contractor's ability to proceed with Implementation of the System, as required in the ITP Section 5.7.3.3.

11.9 Readiness Determination. At each readiness determination checkpoint described in the Statewide Implementation Plan, Contractor shall evaluate and document the checkpoint indicators and shall submit a Readiness Determination Report to the State. Contractor shall request Acceptance from the State to proceed with Implementation and State shall respond within five business days after receipt of Contractor's request with its Acceptance or rejection pursuant to the procedures in Section 7.3.

11.10 Weekly Implementation Status Reports. At the beginning of Pilot Implementation and continuing through complete Statewide Implementation, Contractor shall submit a weekly Implementation Status Report containing information about the Implementation progress in each County that is preparing for or undertaking Implementation activities. This status Report shall be in addition to the regular weekly Project Management status Reports. Implementation Status Reports shall be organized by district office and County, and shall contain information about all Implementation activities as described in the Statewide Implementation Plan and the ITP.

11.11 Cash EBT Implementation. All Counties that intend to implement the System for the issuance of cash program Benefits concurrently with food stamp program benefits are listed in Exhibit H. These Counties shall be designated in the Project Management Plan and Statewide Implementation Plan as Cash EBT Counties.

11.11.1 County Specific Cash Access Plan. Contractor shall develop a County Cash Access Plan Deliverable which is specific to each Cash EBT County, according to the requirements of ITP Section 5.10.3. Contractor shall deliver a County Cash Access Plan for each Cash EBT County five months before Conversion is scheduled to begin in that County. The State must provide its Acceptance for the County Cash Access Plan before Implementation may begin in that County.

11.11.2 Counties may elect to add cash to the EBT program at any time during the term of the Agreement. Any County that requests Implementation of cash as part of the EBT Services more than 30 days after Execution Date will be included in the initial Statewide Implementation Plan if the established Schedule for food stamps Implementation is not adversely impacted. The State reserves the right to make the final decision whether the established Schedule for food stamps Implementation is so adversely impacted.

11.11.3 If the County request to add cash to the EBT Services cannot be included within the original Implementation Work Plan and Schedule, the parties acknowledge that the County may be required to delay Implementation of cash EBT until Rollout of food stamps is complete.

11.12 Deficiency Correction. In addition to its other obligations described in the Project Management Plan and this Agreement, Contractor shall correct all Deficiencies before the State shall pay amounts agreed upon for completion of Implementation. If Contractor is unable to correct all Deficiencies arising during the Implementation process in accordance with the requirements of this Agreement, the State shall have the right to exercise its available remedies, as provided in Section 22.2.8.

12. TRAINING.

12.1 State and County Staff Training.

12.1.1 Training Plan. Contractor shall prepare and implement a comprehensive Training plan for the initial Training of State and County staff on the use of the System in accordance with the requirements in the Agreement. The Training Plan shall include, at a minimum:

12.1.1.1 Training Scope. An overview of the Training requirements for System users performing various functions (e.g., Card issuance, account history inquiry, fraud prevention and detection, fiscal reconciliation, system security, System performance, and inventory control);

12.1.1.2 Training Courses. A description of individual courses, including objectives, scope, content outline, length, and materials required;

12.1.1.3 Training Schedule. A detailed Training schedule that will support the detailed Implementation Schedule in the Statewide Implementation Plan;

12.1.1.4 Training Facility Requirements. A description of the Facility set up and Equipment requirements, including computer and telecommunications connectivity requirements; and

12.1.1.5 Mastery Evaluation after Training Completion. A description of the competencies that will be developed through Training and the methodology used to evaluate trainees' proficiency after Training, including a description of mitigation to be undertaken if the Training fails to meet competency objectives.

12.1.2 Training Materials. Contractor shall develop written Training materials specific to each audience being trained, to assist users in the day-to-day use of the System. The materials shall be a self-instruction guide, and shall include, at a minimum:

12.1.2.1 **General System Information.** An overview of the purpose and function of the System along with flow charts showing the various processes in the System;

12.1.2.2 **System Equipment.** A description of administrative terminals, Card embossing Equipment, PIN selection Equipment, and any other System Equipment used by County or State staff;

12.1.2.3 **Administrative Terminal Functions.** A description of administrative terminal functions including all screens;

12.1.2.4 **Customer Service.** A description on the customer service functions available to Recipients, as well as the technical help desk available to State and County staff;

12.1.2.5 **Reports.** Instruction on the use of standard reports and the generation of ad hoc reports as appropriate for specific user functions; and

12.1.2.6 **Quick Reference Guide.** Provide user specific instructions for most common tasks.

12.1.3 Training Sessions. Training will be provided for all initial users at the State and County offices. Contractor shall also provide Training for trainers who will be responsible for the future training of State and County staff and Recipients. Ongoing staff training shall be the responsibility of the State and/or Counties, unless significant modifications to the System are made, in which case Contractor shall provide Training on new System features as necessary.

12.1.3.1 Contractor shall develop and supply all Training materials in sufficient quantity to train the anticipated number of State and County staff initially requiring Training, plus an additional 20%.

12.1.3.2 Contractor shall provide Training during prime working hours (8:00 a.m. – 5:00 p.m.) on workdays at the user's work Site, unless an alternate Training Site is agreed to by the State.

12.1.3.3 All Training classes provided by Contractor to County staff shall be held at a County Site, unless a regional Training approach is approved by the State.

12.1.3.4 Contractor shall supply all telecommunications lines and other telecommunications facilities and Equipment required to conduct Training, including computer workstations, if required. The workstation to trainee ratio shall be 1:1.

12.1.3.5 If any Training Equipment (either the trainee's or the instructor's) fails to perform, technical support shall be provided by Contractor within two hours to resolve the problem.

12.1.3.6 Upon delivery, all Training manuals and materials become State property for use in subsequent Training. The State has the right to modify, copy and distribute these manuals and materials.

12.2 Recipient Training.

12.2.1 Recipient Training Plan. Contractor shall develop a Recipient Training Plan according to the Training requirements described in the ITP Section 6.9.1 and ITP Section 6.9.2. The Recipient Training Plan shall describe, at a minimum:

12.2.1.1 **Training Scope and Content.** Scope and content of all required recipient Training materials, including pamphlets, wallet Cards, posters, video, and Recipient notification letters; and

12.2.1.2 **Hands-On Training Approach.** Plan for providing hands-on Training to Recipients who request such Training or have apparent difficulty understanding or operating the EBT Card or Equipment.

12.2.2 Training Materials. Contractor shall develop and supply printed Training materials in sufficient quantity to train the anticipated Statewide cash and food stamp Caseload for Conversion plus an additional 20%. Contractor shall develop the following Training materials for use by Recipients, as specified in the ITP Section 6.9.2:

12.2.2.1 Pamphlet;

12.2.2.2 Wallet Cards;

12.2.2.3 Posters;

12.2.2.4 Notifications; and

12.2.2.5 Videos.

12.2.3 Languages. Contractor shall provide printed and video Training materials in English and Spanish to every County. Training materials in the additional languages required by ITP Section 6.9.2.1 will be provided upon request of the County, based upon its Caseload of Recipients speaking such additional languages.

12.2.4 Producing Training Videos. Contractor shall design and produce Training videos in all required languages, according to the requirements of the ITP Section 6.9.2.5. The video development shall be in accordance with the Project Management Plan and Schedule, and according to the following process:

12.2.4.1 Draft script(s) with input from the State and Counties;

12.2.4.2 Script review and Acceptance, including review of all scripts in all languages required. The State shall have 15 business days to review the rough cut of all scripts;

12.2.4.3 Revise the script(s) as required. This step may require multiple revisions;

12.2.4.4 Final review and Acceptance. The State shall have 15 business days to give its Acceptance for the final script(s);

12.2.4.5 Video production vendor selection with input and approval from the State;

12.2.4.6 The State shall participate in the selection of talent for the videos;

12.2.4.7 The State shall participate in the selection of sites for taping the videos;

12.2.4.8 Production of the videos;

12.2.4.9 Rough cut review including review of videos produced or dubbed in all languages required; and

12.2.4.10 Acceptance of final videos.

12.2.5 Copies of Master Video. Contractor will maintain the master video throughout the term of the Agreement and shall provide additional copies as required for each Card issuance Site on a quarterly or as needed basis in addition to those described in this section, at no additional charge to the

State. Contractor is responsible for developing and supplying sufficient additional copies of the Training video(s) to provide:

12.2.5.1 Not less than five copies per Card issuance Site;

12.2.5.2 Not less than two copies per administrative Site in each County; and

12.2.5.3 Not less than two copies of each video to the State.

12.2.6 Upon delivery, all printed and video Training materials become State property for use in subsequent Training. The State has the right to modify, copy and distribute these videos and other materials.

12.2.7 Contractor shall provide training of Recipients for initial Implementation. The primary method of Training Recipients shall be through the distribution of printed and video Training materials. However, during Card issuance activities, if Recipients demonstrate an inability to understand or use the EBT system, or if the Recipient requests face-to-face Training, Contractor shall provide face-to-face hands-on Training to such Recipients. Such Training shall be provided at the same time and place that Card issuance is taking place.

12.2.8 After initial Conversion is completed, training of new EBT Card holders shall be the responsibility of the County.

12.3 Retailer Training.

12.3.1 Training Plan. Contractor is responsible for ensuring all Acquirers are equipped and trained to participate in using the System and receiving EBT Services, according to the requirements of the ITP Section 6.9.3. Contractor shall develop a Retailer and Third Party Processor Training Plan Deliverable describing, at a minimum, the following:

12.3.1.1 FNS Retailers and other acquirers to be trained, types of Training materials and content;

12.3.1.2 Training to be provided via mail, telephone support and face-to-face Training as required, and

12.3.1.3 Training for non-traditional Retailers, including but not limited to group homes and farmers' markets.

12.3.2 Training Materials. Contractor shall develop Training materials for Retailers, including printed materials and a video, in English and Spanish, as required in the ITP Section 6.9.3. Contractor shall provide drafts of all Training materials to the State before the final Deliverables are due. Contractor shall supply printed Training materials directly to Retailers having a Retailer Agreement with Contractor.

12.3.3 Instruction.

12.3.3.1 The primary method of Training Retailers shall be the distribution of printed and/or video Training materials via mail.

12.3.3.2 Retailers requiring additional instruction after receiving printed and/or video Training materials may receive such assistance upon request through a toll-free customer service number that will be provided by Contractor.

12.3.3.3 Contractor shall provide face-to-face training to Retailers wishing to participate in the System, upon request of the Retailer.

12.3.3.4 Training of Retailers shall be the responsibility of Contractor for initial Implementation and throughout the term of the Agreement.

12.3.4 Delivery. Contractor shall deliver draft and final versions of all Training materials to the State for review and Acceptance before producing the Training materials for distribution. Upon delivery all Training manuals and materials become State property for use in subsequent Training. The State has the right to modify, copy and distribute these manuals and materials.

13. WARRANTIES.

13.1 System and EBT Services Warranties. Contractor warrants that the System, in whole and in part, including but not limited to the Software source code, Data base structures, and Data design, and the EBT Services shall operate in accordance with the Specifications and will be fit for their intended purposes, free from all defects in materials and workmanship and free from defects of design. The State's approval of designs or Specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty. Contractor shall immediately correct all Deficiencies in the System and perform its other support Services as described in Section 14 for any breach of this warranty.

13.2 Deliverables. Contractor warrants that each Deliverable shall meet its Specifications as provided herein. Contractor shall immediately correct all Deficiencies in a Deliverable or any portion thereof, without charge, including without limitation for labor, travel, shipping or handling, for a breach of this warranty.

13.3 Services. Contractor warrants that:

13.3.1 It shall fully perform, complete and deliver all work, tasks, Deliverables, goods, and Services as described in this Agreement and the Project Management Plan;

13.3.2 Time is of the essence in connection with Contractor's fulfilling its obligations under the Agreement;

13.3.3 It shall give high priority to the performance of the Services; and

13.3.4 It shall perform all Services required pursuant to this Agreement in a professional manner, with high quality, and in compliance with the Performance Standards.

13.4 Equipment.

13.4.1 Contractor represents and warrants with respect to the Equipment that:

13.4.1.1 The State's or the Retailers' use and possession of the Equipment will not be interrupted or otherwise disturbed by any person or entity asserting a claim under or through Contractor;

13.4.1.2 The Equipment will be free of any claim of any third person or entity based on patent or copyright infringement, trade secret misappropriation, unfair trade practice, or otherwise; and

13.4.1.3 The Equipment will be new and unused, unless otherwise agreed to in writing and in advance by the State.

13.4.2 Contractor acknowledges that the State is relying on Contractor's expertise in the choice of Equipment and its configuration. Contractor warrants that each item of Equipment, component, or feature thereof delivered hereunder will conform to the detailed Specifications of such item and its configuration in all respects including, but not limited to, physical characteristics, operating characteristics, space requirements, power requirements, maintenance or warranty characteristics, modularity, comparability, and functionality. Any such configuration shall be deemed incomplete and

undeliverable if any item of Equipment, component, or feature thereof within that configuration has not been delivered, or, if delivered, not installed or operational in accordance with its Specifications and the Project Management Plan.

13.5 Year 2000 Compliance. The Contractor warrants that its System, including all Software, Equipment and firmware products delivered under this Agreement, shall accurately process date data (including, but not limited to, calculating, comparing, and/or sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date data with it. This warranty is not exclusive and other warranty terms and conditions of this Agreement apply to the System.

13.6 No Viruses or Bombs. Contractor represents and warrants that the System and EBT Services provided by Contractor under this Agreement shall contain no viruses, back doors, bombs or other software mechanisms, techniques or devices designed to disrupt, disable or stop its processing of Data or other performance in accordance with its Specifications.

13.7 No Gratuities. Contractor represents and warrants by signing the Agreement that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor or any agent or representative of Contractor, to any officer or employee of the State with a view toward securing the Agreement or securing favorable treatment with respect to any determinations concerning the performance of the Agreement.

13.8 Good Standing. Contractor represents and warrants it is currently in good standing with the State Office of the Secretary of State and qualified to do business in California in order to ensure that all obligations due to the State are fulfilled.

13.9 Power and Authority. Contractor represents and warrants that it has the full power and authority to perform the Services described in this Agreement. Contractor further represents and warrants that it has full power and authority to grant the rights herein granted and will hold the State harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor avers that it will not enter into any arrangement with any third party which might abridge any rights of the State under this Agreement.

14. SYSTEM OPERATION AND MAINTENANCE SERVICES.

14.1 General Responsibilities. Beginning with the first Case that is active on the System, Contractor shall provide Services as described in this Section to correct Deficiencies in the System, in whole and in part, and operate, repair and maintain the System in accordance with the Specifications. Contractor's responsibilities shall include but not be limited to the following:

14.1.1 Immediately repair or replace the System, or any portion thereof, that has Deficiencies;

14.1.2 Maintain the System in accordance with the Specifications and terms of this Agreement;

14.1.3 Provide labor, parts, materials, and transportation to maintain the System in compliance with Specifications during the term of the Agreement;

14.1.4 Specify in writing the frequency and duration of preventive maintenance Service for the Equipment. Preventive (scheduled) maintenance Service shall be performed on a schedule which is mutually acceptable to the State and Contractor, which is consistent with the operating requirements of the State and Counties, and which is based upon the specific needs of the Equipment as determined by the Specifications;

14.1.5 Promptly commence performing remedial maintenance Services after notice is provided and always be responsive to the maintenance requirements of the State according to the provisions of this Section 14;

14.1.6 Provide these Services described in this section, 24 hours a day, seven days a week, 365 days a year, at any Site, exclusive of mutually agreed upon, scheduled Downtimes;

14.1.7 Propose revisions to the System as necessary to meet the State's needs;

14.1.8 Coordinate with the State all tasks related to correcting problems and Deficiencies identified with the System;

14.1.9 Perform account setup and benefit authorization;

14.1.10 Perform account maintenance;

14.1.11 Perform transaction processing;

14.1.12 Produce Card production;

14.1.13 Manage Acquirer participation;

14.1.14 Provide customer Service for Recipients and Acquirers;

14.1.15 Operate the State/County help desk;

14.1.16 Perform Settlement and Reconciliation;

14.1.17 Report on a regular basis as provided in the Agreement;

14.1.18 Produce System Enhancements; and

14.1.19 Perform preventive and remedial maintenance Services for the EBT Host, County, State, and Federal administrative Equipment, and Retailer POS Equipment supplied by Contractor.

14.2 Inquiry Assistance. In addition to the Customer Service obligations described in ITP Section 6.11, Contractor shall provide immediate 24 hour a day, seven days a week, 365 days a year, on-call telephone assistance to the State, Retailers, Recipients and others in accordance with all applicable Performance Standards and the Agreement. Contractor shall respond to the inquiry with the following, as applicable:

14.2.1 Responses to questions relating to the System and Services, including without limitation isolating problems to the Software, Data or Equipment;

14.2.2 The development, on a best efforts basis, of a temporary solution to or an emergency bypass of a Deficiency;

14.2.3 Corrections and repairs of errors, problems or Deficiencies with the System and Services, to the extent technically feasible; and

14.2.4 Clarification and updating of Documentation.

14.3 Additional Assistance. In the event that the System is, in whole or in part, non-operational, Contractor shall immediately dedicate all resources necessary to, and shall, correct all Deficiencies or problems causing the System to be so non-operational. If requested by the State in its technical judgment or as otherwise determined by Contractor to be necessary, Contractor shall

immediately dispatch its Staff to the Sites and dedicate them at the Sites to perform such correction Services until the System operates in accordance with its Specifications.

14.4 Deficiency Incident Report. Contractor shall furnish the State with a Deficiency incident Report upon completion of each visit by such Staff as described in Section 14.3. The Report shall include, as a minimum, the following:

- 14.4.1** Date and time notified;
- 14.4.2** Date and time of arrival or inquiry response;
- 14.4.3** Time spent for resolution of Deficiencies;
- 14.4.4** Description of Deficiency;
- 14.4.5** Description of Deficiency resolution; and
- 14.4.6** Verification with local contact.

14.5 Enhancements. Contractor shall promptly produce such Enhancements as the State requests at an additional charge in accordance with the Work Authorization process described herein. Enhancements to correct any Deficiency shall be provided to the State at no additional cost. For Enhancements required to comply with new Federal or State law or regulation or State policy, Contractor and State shall agree upon the scope of the change and expected completion date in accordance with the Work Authorization process described in Section 16.

14.6 Performance Standard Measurement. Contractor shall perform the Services and maintain the System to meet the Performance Standards. The State and Contractor will conduct tests for measuring and certifying the achievement of these Performance Standards.

14.7 Maintenance Service Coverage for Administrative Equipment.

14.7.1 Period of Maintenance Service Coverage.

14.7.1.1 The State may select for any Site a period or periods of maintenance Services coverage in accordance with the following:

14.7.1.1.1 A minimum monthly maintenance Service charge entitles the State to maintenance Service coverage during the principal period of maintenance, which is the 12 consecutive hours from 7:00 a.m. to 7:00 p.m., Monday through Friday; and

14.7.1.1.2 The State reserves the right to adjust the principal period of maintenance based upon the actual office hours where Equipment may be located.

14.7.1.2 The State may change its selected period of maintenance Service coverage by giving Contractor 15 days prior notice.

14.7.2 Preventive Maintenance Service (Scheduled). Contractor shall provide preventive maintenance Service during reduced workload periods within regular State or County operating hours. Contractor shall propose a preventative maintenance Service schedule which must be approved by the State and can only be changed by mutual consent of Contractor and the State.

14.7.3 Remedial Maintenance (Unscheduled).

14.7.3.1 Unscheduled remedial maintenance Service shall be performed after notice by the State or a County to Contractor that the Equipment has Deficiencies.

14.7.3.2 Contractor shall use the help desk as the designated point of contact and will enable its maintenance Service representative to receive such notice.

14.7.3.3 Service calls are included in the monthly maintenance charges in Exhibit A.

14.7.3.4 Contractor will respond to a call for remedial maintenance Service by the Performance Standards described in this Section. The time for measuring Contractor's performance of its obligations under this section shall be the time interval between the time a trouble call is initiated and the time maintenance Service personnel arrive at the Site of the Deficiency, exclusive of that time during which Contractor may be denied access to the Equipment due to the security regulations of the State, or the applicable County. The following levels of maintenance Service are:

14.7.3.4.1 Emergency - A Countywide outage, i.e., an entire County is unable to perform a Business Function. Functional Restoration is required within eight hours, and Deficiency Resolution within 24 hours.

14.7.3.4.2 Critical - Site-wide outage, i.e., an entire Site within a County is unable to perform a Business Function; in instances where a County only has one Site, this category does not apply since the outage is treated as an Emergency Countywide outage. Functional Restoration is required within 16 hours, and Deficiency Resolution within 48 hours.

14.7.3.4.3 Non-critical - Defined as a Site impaired outage, i.e., where more than a third of a Site is unable to perform a Business Function. Functional Restoration is required within 24 hours, and Deficiency Resolution within 72 hours.

14.7.3.4.4 Low Priority - Defined as any other outage of one or more items of Equipment. Functional Restoration is required within 32 hours, and Deficiency Resolution is required within 96 hours.

14.8 Maintenance Service Coverage for EBT-Only POS Equipment.

14.8.1 Period of Maintenance Coverage. The period of maintenance Service coverage for EBT-Only POS Equipment shall be 24 hours per day, seven days per week.

14.8.2 Preventive Maintenance Service (Scheduled). Contractor will provide preventive maintenance Service during reduced workload periods within regular operating hours, unless otherwise agreed to by Contractor and the Retailer.

14.8.3 Remedial Maintenance Service (Unscheduled).

14.8.3.1 Unscheduled remedial maintenance Service shall be performed after notice from the Retailer to the Contractor that the Equipment has Deficiencies.

14.8.3.2 The Retailer shall use the Retailer Customer Service Center as the designated point of contact. Contractor may assist the Retailer in determining the cause of the Deficiency in the Equipment via the customer service center, and may overnight mail replacement Equipment as needed.

14.8.3.3 For EBT-only POS Equipment, Contractor shall repair or replace any Equipment with Deficiencies within 24 hours of the Retailer's request, seven days per week.

14.9 Exclusions from Maintenance Service Coverage. Maintenance Service does not include:

14.9.1 Electrical work external to the Equipment or maintenance of accessories, alterations, attachments, or other devices not listed in Exhibit C;

14.9.2 Repair of damage or increase in service time caused by: accident; disaster, which shall include, but not be limited to, fire, flood, water, wind, and lightning; transportation; neglect or misuse; or alterations Specifications;

14.9.3 Repair of damage or increase in service time resulting from failure to provide an installation environment as required in the Specifications;

14.9.4 Except as specified in Section 5.16: furnishing supplies or accessories; painting or refinishing the Equipment or furnishing material therefor; inspecting Equipment altered by other than Contractor or the State or a County under instruction from or approval of Contractor; or adding or removing accessories, attachments or other devices;

14.9.5 Repair of damage or replacement of parts (due to other than normal wear) caused by the use of supplies or materials not Specifications for such supplies or materials; or

14.9.6 Repair or maintenance by Contractor that is required to restore such Equipment to operating condition as described in the Specifications after any person other than Contractor's employee had performed maintenance or otherwise repaired or relocated an item of Equipment, unless expressly allowed elsewhere in this Agreement or under instructions from or approval of Contractor.

14.10 Repeated Equipment Failures. Equipment which fails to function in accordance with its Specifications and as required herein such that the programs of the State or Counties are adversely affected, for three times in any 60-day period, shall be promptly replaced by Contractor at the request of the State. Before requesting a replacement, the State will attempt to satisfactorily resolve the problem with Contractor. The State will be the sole judge as to the adverse impact upon the programs of the State of nonfunctioning Equipment which the State requests to be replaced. However, the State shall not act in an arbitrary or capricious manner in making any such request. Contractor must provide the State with written confirmation of all permanently replaced Equipment including model and serial numbers of the Equipment being replaced and Equipment being installed.

14.11 Replacement Parts. Maintenance parts will be furnished by Contractor and will be new when used in the Equipment. Replaced maintenance parts become the property of Contractor.

14.12 Responsibilities of the State. Unless mutually agreed on by Contractor and the State, Site staff will not perform maintenance Services or attempt repairs to the Equipment while such Equipment is under the purview of this Agreement.

14.13 Maintenance of Relocated Equipment. In the event the Equipment being maintained under the terms of this Section 14 is relocated to another location within the State of California, Contractor shall continue to maintain the Equipment at the new location.

14.14 Maintenance Services Charges.

14.14.1 The monthly maintenance Services charges, which shall be as specified in Exhibit A, include all maintenance Services costs. The State shall pay for maintenance Services charges as described in Section 3.

14.14.2 Maintenance charges for fractions of a calendar month shall be computed at the rate of 1/30 of the applicable total monthly maintenance charge for each day maintenance Service is provided.

14.15 Termination of Maintenance Services for Equipment. For leased or purchased Equipment, the State may terminate maintenance Services for any or all of the Equipment upon one month's prior notice.

14.16 Bug Reports. Contractor shall provide to the State a list and description of all potential or actual problems, bugs, errors and Deficiencies known by Contractor to be in any Contractor customer's version of the System or variant of the System used to provide the EBT Services, along with a schedule

for resolution thereof. Contractor shall provide the State with such list and descriptions immediately upon discovery, but no later than in the weekly status Reports described above. Contractor shall also provide a list at this same time for the System at the State describing when the problems, bugs, errors and Deficiencies occurred at the State, Contractor's own facilities or other customers of Contractor.

14.17 ACH Tapes. Contractor will prepare a daily ACH tape or other crediting process approved by FNS with information on benefits redeemed and creditable to each Retailer. Contractor will also transfer the ACH Data to the Federal Resource Bank or other entity approved by FNS. Contractor shall be liable for any errors in the creation of this ACH Data tape or its transmission or other crediting process approved by FNS for the System.

14.18 System Development. Contractor shall work with the State to pursue continuous improvement of the System by identifying System improvement and innovation opportunities and developing them into EBT System Innovation Recommendations, as required by the ITP Section 5.11. Contractor shall independently identify EBT System Innovation opportunities, and shall respond to requests for EBT System Innovation Recommendations made by the State. The parties agree that they will utilize the process described in Section 16 (Work Authorizations) for EBT System Authorizations and will designate the document used for EBT System Innovations as "Innovation Forms." However, such EBT System Innovations shall not be subject to limitations for Work Authorizations described on the cover sheet of the Agreement. An EBT System Innovation Recommendation Deliverable pertaining to the participation of California Farmers' Markets in the EBT System shall be delivered by Contractor to the State within 90 days of the Execution Date.

14.19 System Transition.

14.19.1 Contractor shall develop a System Transition Plan as a Deliverable, which provides for the migration of the System to a new contractor without disruption of service. Contractor shall prepare and deliver a System Transition Plan to the State within 12 months after the Execution Date. Contractor shall update the System Transition Plan as necessary until the Agreement terminates. The System Transition Plan shall begin six months before the end of the initial Agreement term, and/or the end of any subsequent option period(s), detailing the transition activities that will or may be needed at the termination of this Agreement, which provides for the migration of the System to a new contractor without disruption of EBT service. This plan should include provisions for identifying to the State all participating members of the System and a method of advising these participants of any migration activity needed to keep this System of benefit providers in place when the Agreement terminates. This plan should include a schedule of all activities with time frames to insure a successful transfer to a subsequent contractor.

14.19.2 If the State will be transitioning to a new contractor, Contractor shall assist the State and Counties in migrating to a new EBT contractor in accordance with the System Transition Plan and shall provide all necessary support to facilitate a speedy and problem-free transition that does not interfere with service to Recipients or county operations. As part of this activity, Contractor shall:

14.19.2.1 Provide current System Documentation, current source programs, executables, and Data files in such format and on such media as requested by the State;

14.19.2.2 Work with new contractor to ensure that the System Transfer Plan is executed;

14.19.2.3 Assist in all aspects of the conversion to ensure a successful transition;
and

14.19.2.4 At the request of the State, Contractor shall continue to perform the duties and responsibilities of the Agreement following the normal expiration date of the Agreement.

15. ADDITIONAL RIGHTS AND REMEDIES.**15.1 Liquidated Damages - General.**

15.1.1 The parties agree that any delay or failure by Contractor to timely perform its obligations by the dates in the Project Work Plan and in accordance with the Performance Standards and other requirements in this Agreement will interfere with the proper and timely Implementation of the System and EBT Services, to the loss and damage of the State. Further, the State will incur costs to maintain the functions that would have otherwise been performed by Contractor. The parties understand and agree that liquidated damages Contractor shall pay to the State as a result of delay or failure by Contractor to timely perform its obligations by the dates in the original Project Work Plan and in accordance with the Performance Standards and other requirements in this Agreement are described in this Section 15.

15.1.2 For the amount of any such damages, the State shall have the right to reduce the amount of payment due hereunder to Contractor and/or require direct payment therefor from Contractor to the State. The parties agree that the damages herein provided are difficult to establish and Contractor shall pay the amounts in Section 15.2 as liquidated damages and not as a penalty.

15.1.3 The assessment of liquidated damages shall not constitute a waiver or release of any other remedy the State may have under this Agreement for Contractor's breach of this Agreement, including without limitation, the State's right to terminate this Agreement, and the State shall be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Agreement. Such actual damages include without limitation staff time and travel costs.

15.2 Liquidated Damages – Specific Amounts.

15.2.1 Deliverables. If Contractor does not receive Acceptance for the following Deliverables in conformance with the original Project Work Plan and the Acceptance Criteria for each Deliverable, liquidated damages shall be paid to the State at the rate of \$2,500 per Deliverable for each day that the Deliverable is late or is rejected by the State due to failure to meet the Acceptance Criteria:

15.2.1.1 Project Management Plan;

15.2.1.2 Detailed System Design; and

15.2.1.3 System Test Plan.

15.2.2 Project Delays. Contractor shall pay the State liquidated damages of \$50,000 for each month, in whole or in part, that Pilot Acceptance does not occur by the date in the original Project Work Plan.

15.2.3 Federal System Certification. If Contractor does not achieve Federal System Certification (with successful Acceptance Test with all testing exceptions corrected) within the time specified in the original Project Work Plan, liquidated damages shall be paid to the State at the rate of \$7,500.00 each day until the milestone is met.

15.2.4 Eligibility System Pilot Acceptance. If Contractor does not meet an Eligibility System Interface Acceptance date within the time specified in the original Project Work Plan, liquidated damages shall be paid to the State at the rate of \$5,000 per milestone each day a milestone is not met.

15.2.5 Performance Standards. If Contractor does not meet any of the following System Performance Standards, liquidated damages shall be paid to the State at the rates specified below:

15.2.5.1 Contractor is required to meet a transaction processing platform Uptime availability Performance Standard of 99.9% of Uptime, measured on a calendar month basis, as

described in the ITP Section 6.17.1. This Uptime availability percentage is based on the EBT Host running 24 hours a day and seven days a week. If Contractor does not meet the 99.9% Performance Standard, liquidated damages will be paid to the State pursuant to Table 1 listed below and Contractor will provide the State with a corrective action plan within two hours of the State determining Contractor has failed to meet such Uptime Performance Standards.

Table 1: System Availability Liquidated Damages

Uptime Availability Achieved	Liquidated Damages Due per Month
99.8%	\$10,000
99.7%	\$20,000
99.6%	\$30,000
99.5%	\$50,000
99.4 to 99.0%	\$75,000
Below 99%	\$100,000

15.2.5.2 Contractor is required to meet the Transaction Response Time Standards specified in the ITP Section 6.6.5. If Contractor does not meet these four Performance Standards, liquidated damages of \$10,000 will be paid to the State for each week, in whole or in part, Contractor fails to achieve all these Performance Standards.

15.2.5.3 Contractor is required to meet the Transaction Processing Accuracy Standard specified in the ITP Section 6.6.5. If Contractor does not meet this Performance Standard, Contractor will immediately install additional telecommunications facilities and equipment, and add Staff to correct such failures. In addition, Contractor shall pay the State all of the State's actual costs and damages incurred as a result of such failures.

15.2.5.4 Contractor is required to meet the Customer Service Performance Standards (Retailer and Recipient service will be combined when calculating Contractor performance) specified in the ITP Section 6.11.4. If Contractor fails to achieve these Performance Standards, Contractor will immediately install additional telecommunications facilities and equipment, and add Staff to correct such failures. In addition, Contractor shall pay the State liquidated damages pursuant to Table 2 below for each day Contractor fails to achieve the Performance Standards.

Table 2: Customer Service Performance Liquidated Damages

Daily Performance	Liquidated Damages Due Per Day
90 to 94.9% in 4 rings	\$1,000
85 to 89.9% in 4 rings	\$2,000
80 to 84.9% in 4 rings	\$3,000
Less than 80% in 4 rings	\$4,000
Average time on hold 3 minutes	\$1,000
Average time on hold 4 minutes	\$2,000
Average time on hold 5 minutes	\$3,000
Time on hold 5 minutes or greater	\$4,000
5.1% to 10% of calls receive busy signal	\$1,000
10.1% to 15% of calls receive busy signal	\$2,000
15.1% to 20% of calls receive busy signal	\$3,000
Greater than 20% receive busy signal	\$4,000
3.1% to 5% of Calls Dropped from ARU	\$1,000
5.1% to 7% of Calls Dropped from ARU	\$2,000
7.1% to 10% of Calls Dropped from ARU	\$3,000
Greater than 10% of Calls Dropped from ARU	\$4,000

15.2.5.5 Contractor is required to insure that all tasks necessary to accomplish daily settlement are completed in a timely manner in accordance with the Settlement and Reconciliation Plan. In the event one or more Counties elect to include cash program(s) in the EBT System, settlement

shall mean both Food Stamp and cash programs. Contractor is also required to accomplish reconciliation with 100% accuracy. If Contractor does not meet these Performance Standards, liquidated damages will be paid to the State pursuant to Table 3 below for each day Contractor fails to achieve the Performance Standard. The Performance Standard shall be considered not met if one or more Counties do not receive timely Settlement and Reconciliation Service.

Table 3: Settlement and Reconciliation Liquidated Damages

Performance Standard Not Met	Liquidated Damages Due Per Day
The ACH Window is not met	\$2,500
Untimely completion of AMA and ASAP tasks, i.e., Contractor misses a settlement deadline causing settlement to wait until the next ACH Window	\$2,500
Untimely distribution of Settlement and Reconciliation reports	\$2,500
100% reconciliation accuracy not achieved	\$2,500

15.2.5.6 Contractor is required to post benefits to Card holder accounts in accordance with the timeframe(s) specified in the Operations Manual. If Contractor does not meet this Performance Standard(s), liquidated damages of \$10,000 will be paid to the State for each day Contractor fails to achieve this Performance Standard(s). In the event there are multiple timeframes, if Contractor fails to meet any one of these timeframes, liquidated damages of \$10,000 per day will be paid to the State.

15.2.5.7 Contractor shall insure that Recipient Customer Service and Error Resolution is in compliance with the ITP Section 6.11. In the event that the State conducts an audit of the Customer Service and Error Resolution process and finds that Contractor is not in compliance with the Performance Standards, and Contractor fails to implement the audit report's recommendations and/or fails to correct noted Deficiencies within 30 days of receipt of the State's audit report, the State will withhold up to 10% of each monthly invoice until Contractor demonstrates to the State that it has corrected the previously identified Deficiencies and Contractor shall pay for the cost of the audit.

15.2.6 ALERT Reports. If Contractor is ten or more days late in providing the FNS with monthly ALERT Reports as required in the ITP Appendix G, the State may delay payment of 2% of total payments then owed to Contractor by the State. The State may delay making such payments until the Contractor delivers such ALERT Reports to FNS.

15.2.7 Relief From Liquidated Damages.

15.2.7.1 In the event that Contractor pays liquidated damages to the State for failure to meet the milestones for the original Project Management Plan, Detailed System Design and System Test Plan Deliverables, the State may refund these liquidated damages, in whole or in part, to Contractor if Contractor meets the milestone in the Project Work Plan for Federal System Certification. Similarly, if Contractor has been assessed, but has not yet paid to the State, liquidated damages for failure to meet the above noted milestones in the original Project Work Plan, the State may forgive and not require the payment of these assessed liquidated damages, in whole or in part, if Contractor meets the milestone in the Project Work Plan for Federal System Certification.

15.2.7.2 In the event Contractor pays liquidated damages to the State for failure to meet the Performance Standard in Section 15.2.5.1 above, the State may refund the liquidated damages associated with the Performance Standard to Contractor, in whole or in part, if Contractor meets this Performance Standard for the 12 consecutive months immediately subsequent to the month in which Contractor failed to meet the particular Performance Standard.

15.2.7.3 In the event Contractor pays liquidated damages to the State for failure to meet any of the Performance Standards in Sections 15.2.5.2-15.2.5.6 above, the State may refund the liquidated damages associated with a particular Performance Standard to Contractor, in whole or in part,

if Contractor meets this Performance Standard for the three consecutive months immediately subsequent to the month in which Contractor failed to meet the particular Performance Standard.

15.3 Withholding Payments. The State shall have the right to withhold or delay payments to Contractor, in whole or in part, if Contractor fails to perform its obligations set forth in the Agreement.

15.4 Reductions in Payments Due. Amounts due the State by Contractor, including but not limited to liquidated or other damages, or claims for damages, may be deducted or set-off by the State from any money payable to Contractor pursuant to this Agreement.

15.5 Deductions for Errors in Processing Benefits. Contractor shall be liable to the State for any errors in processing benefits or reimbursements, including without limitation any overpayments or duplicate payments and the State's costs and attorneys' fees incurred in collecting such payments, except to the extent such errors arise from the actions of the State, Counties, or Federal agencies. Such liabilities may, at the State's option, be deducted from Contractor payments. This liability of Contractor shall be in addition to any other liability for processing errors established by the Agreement or by operation of law.

15.6 Cover. If, in the reasonable judgment of the State, a default by Contractor is not so substantial as to require termination, reasonable efforts to induce Contractor to cure the default are unavailing, and the default is capable of being cured by the State or by another resource without unduly interfering with continued performance by Contractor, the State may provide or procure the Services reasonably necessary to cure the default, in which event Contractor shall reimburse the State for the reasonable cost of the services. In addition, Contractor must cooperate with these resources in allowing access to the Software and Equipment.

15.7 Right to Inspect. The Deliverables and Services being provided by Contractor and its Subcontractors, if any, pursuant to this Agreement shall be available for inspection and review at any reasonable time by representatives of the State. In addition, the State shall have the right to audit and inspect Contractor's use of its Software design and development methodology.

15.8 Stop Work.

15.8.1 The State may, at any time, by written stop work order to Contractor, require Contractor to stop all or any part of the work called for by this Agreement for a period of up to 90 days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate it is issued under this section. Upon receipt of the stop work order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. The Project Work Plan shall be delayed on a day-for-day basis if the State has issued a stop work order to Contractor and such stop work order is causing delays in completing Services in accordance with the Project Work Plan. Within a period of 90 days after a stop work order is delivered to Contractor, or within any extension of that period to which the parties shall have agreed, the State shall either:

15.8.1.1 Cancel the stop work order; or

15.8.1.2 Terminate the work covered by the stop work order as provided for in the "Rights and Remedies of the State for Default" or the "Termination for Convenience of the State" clauses of this Agreement.

15.8.2 If a stop work order issued under this clause is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The State shall make a reasonable adjustment in the Schedule, the Agreement prices, or both, and the Agreement shall be modified in writing accordingly, if:

15.8.2.1 The stop work order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of this Agreement; and
State of California

15.8.2.2 Contractor asserts its right to a reasonable adjustment within 30 days after the end of the period of work stoppage provided that, if the State decides that the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Agreement.

15.8.2.3 If a stop work order is not canceled and the work covered by the stop work order is terminated in accordance with the provision entitled "Termination for the Convenience of the State", the remedies provided in that Section shall apply.

15.8.2.4 If a stop work order is not canceled and the work covered by the stop work order is terminated by default, the parties shall pursue their rights and remedies as described in the Agreement.

16. WORK AUTHORIZATIONS.

16.1 General. In the event that additional work must be performed which was wholly unanticipated and which was identified in neither the ITP nor the Proposal, but which is necessary to the successful accomplishment of the general scope of work for the Agreement, the procedures outlined in this section will be employed.

16.2 Work Authorization Forms.

16.2.1 For each item of unanticipated work, a Work Authorization will be prepared in accordance with the sample attached as Exhibit E and will be incorporated in this Agreement by this reference.

16.2.2 It is understood and agreed by both parties to this Agreement that all of the terms and conditions of this Agreement shall remain in force with the inclusion of any such Work Authorization added to this Agreement. Such Work Authorization shall in no way constitute a contract other than as provided pursuant to this Agreement or in any way amend or supersede any of the other provisions of this Agreement.

16.2.3 Each Work Authorization shall consist of a detailed statement of this purpose, objective, or goals to be undertaken by Contractor, the job classification or approximate skill level of the personnel to be made available by Contractor, an identification of all significant material and Deliverables to be developed by the Contractor and delivered to the State, an identification of all significant materials to be delivered by the State to the Contractor, a time schedule for the provisions of these Services by Contractor, completion criteria for the work to be performed, the name or identification of the Contractor personnel to be assigned, the Contractor's work hours required to accomplish the purpose, objective or goals, the Contractor's billing rates per work hour and the Contractor's total cost of the Work Authorization.

16.2.4 All Work Authorizations must be in writing prior to beginning work and signed by the Project Manager and Project Director.

16.2.5 The parties acknowledge and agree that all Work Authorizations requested by the State in a total amount for such Work Authorizations over \$_____ per State fiscal year are subject to the prior approval of HWDC's control agencies.

16.3 Stop Work. The State has the right to require Contractor to stop or suspend work on any Work Authorization by prior notice pursuant to Section 15.8 of this Agreement. Contractor agrees to stop or suspend work earlier than 15 days, if Contractor employees engaged in the work can be reassigned to other duties prior to the date.

16.4 Contractor Response. Contractor shall respond in writing to a Work Authorization request within ten days of receipt, advising the State of any cost and Schedule impacts. When there is a cost impact, i.e., increase or decrease amounts to be paid under the Agreement, Contractor shall advise the State in writing of the increase or decrease involved, including a breakdown of the number of Staff

hours by level of personnel needed to effect this change. Contractor shall base prices for Work Authorizations on the reasonable number of Staff hours plus any other reasonable expenses needed to affect the change at reasonable rates. Contractor will offer its price for a Work Authorization on a fixed price and a CPCM basis, either of which the State may choose. Contractor shall not charge the State for preparing a Work Authorization with proposed prices, schedules and tasks.

16.5 Agreement. Contractor and the State shall negotiate in good faith and in a timely manner as to the price and the impact on the Schedule of any Work Authorizations. If the parties reach an agreement in writing, the terms hereof shall be modified accordingly.

16.6 Disagreement. If the parties are unable to reach an agreement in writing within ten days of Contractor's response to a Work Authorization, the Project Director may make a determination of the revised price and Schedule and shall provide Contractor with a written explanation in the event of such determination. Following receipt of such written explanation, Contractor shall immediately proceed with the work according to such price and Schedule, subject to Contractor's right to appeal the Project Director's determination of the price and/or Schedule pursuant to Section 23.12. Nothing in this Section shall in any manner excuse Contractor from proceeding diligently with the Agreement as changed by the Work Authorization.

16.7 Claims. Within 30 days after receipt of a written Work Authorization, unless the period is extended by the State in writing, Contractor shall file notice of intent to assert a claim for an adjustment as a result of such Work Authorization. No claim by Contractor for such an adjustment hereunder shall be allowed if notice is not given prior to final payment under this Agreement.

16.8 Termination. If Contractor fails or refuses to perform its Services pursuant to a Work Authorization, Contractor shall be in material breach of this Agreement, and the State shall have the right to immediately terminate the Agreement for such a breach.

16.9 Pool of Hours. For Services or System change requests that the State initiates, which are outside of "minimal changes" requiring less than one hour of work or otherwise agreed to between Contractor and the State or those required by the Quest Operating Rules, Contractor shall include in its core services Proposal price 3000 hours annually of Services to accommodate such State changes. The Project Director shall direct how such hours are utilized by issuing memoranda to the Project Manager. The State initiated changes beyond the 3000 hours shall require the parties to pursue the Work Authorization process to account for Systems changes and hours. If any such hours remain at the expiration or termination of the Agreement, Contractor shall utilize such hours in providing transition services as described in Section 22.5.6.

17. INSURANCE.

17.1 Liability and Auto Insurance. Contractor shall obtain, before the commencement of its Services herein described, and, during the term of this Agreement, maintain, in full force and effect, the insurance coverage described in this Section with an insurance carrier or carriers approved by the State, which approval shall not be unreasonably withheld. Contractor shall include the State as a named insured party in Contractor's insurance policy obtained hereunder. The minimum acceptable limits and types of coverage shall be not less than \$1 million per occurrence and \$2 million aggregate limit per occurrence for each of the following categories:

17.1.1 Public liability covering the risks of bodily injury, property damage and personal injury (including death);

17.1.2 Automobile liability (owned and unowned) covering the risks of public liability and property damage; and

17.1.3 Professional liability insurance, covering, among other matters, errors and omissions of Contractor in performing the Services.

17.2 Worker's Compensation Coverage.

17.2.1 Prior to performing Services under the Agreement, Contractor shall provide or purchase worker's compensation coverage for Contractor's employees, as may be required under applicable law during the term of the Agreement. Should Contractor fail to secure such coverage or fail to pay premiums, as may be required under applicable law, the State may deduct the amount of premiums and any penalties owing from the amounts payable to Contractor under the Agreement and transmit the same to the appropriate State agency. This provision does not waive any right to collect from Contractor amounts paid by the State.

17.2.2 The State shall not be responsible for payment of worker's compensation premiums or for any other claim or benefit for Contractor, or any Subcontractor or employee of Contractor, which might arise under the worker's compensation laws during performance of duties and services under the Agreement. If the State, upon audit, determines that worker's compensation payments are due and owing as a result of work performed under the Agreement, those payments shall be made by Contractor; Contractor shall indemnify the State and guarantee payment of such amounts.

17.3 Subcontractors. Contractor shall require any and all of its Subcontractors to take out and maintain similar policies of compensation insurance as described in this Section or be properly certified under applicable state law as self-insured. A certificate of such insurance policy carried shall be furnished to the State upon request.

17.4 Premiums. Premiums on all insurance policies shall be paid by Contractor or its Subcontractors. Such insurance policies provided for the State pursuant to this Section shall expressly provide therein that the State be named as additional insured, and that it shall not be revoked by the insurer until 30 days notice of intended revocation thereof shall have first been given to the State by such insurer.

17.5 Certificates. Contractor shall furnish to the State copies of certificates of all required insurance within 30 days of the Execution Date.

18. STATE PROPERTY.

18.1 Ownership. The State shall retain title to all Property furnished by the State to Contractor under the Project.

18.2 Use of Property. Any Property furnished to Contractor shall, unless otherwise provided herein, or approved in writing by the Project Director, be used only for the performance of and subject to the terms of this Agreement. Contractor's use of the Equipment shall be subject to the State's security, administrative and other requirements.

18.3 Damage to Property. Contractor shall protect and be responsible for any loss, destruction, or damage to Property which results from or is caused by Contractor's acts or omissions. Contractor shall repair or replace any damage, destruction, personal injury or loss at the Facility or Sites caused by Contractor's acts or omissions.

18.4 Notice of Damage. Upon the loss of, destruction of, or damage to any of the Property, Contractor shall notify the Project Director thereof and shall take all reasonable steps to protect that Property from further damage.

18.5 Surrender of Property. Contractor will ensure that the Property will be returned to the State in like condition to that in which it was furnished to Contractor, reasonable wear and tear excepted. Contractor shall surrender to the State all Property upon the earlier of expiration or termination of this Agreement. Contractor grants the State the right to enter upon Contractor's premises for the sole purpose of recovering any the State property that Contractor fails to return within ten days of termination of the Agreement. Upon failure to return the State property within ten days of the Agreement termination, Contractor shall be charged with all reasonable costs of recovery, including transportation and attorney's fees.

19. CONFIDENTIAL INFORMATION.

19.1 Access and Nondisclosure Obligation. During the term of the Agreement, Contractor and the State will have access to and become acquainted with each party's Confidential Information. The State and Contractor, and each of their officers, employees and agents, shall maintain all Confidential Information of the other party in strict confidence and will not at any time use, publish, reproduce or disclose any Confidential Information, except to authorized employees, contractors, and agents requiring such information, as authorized in writing by the other party, as otherwise specifically permitted herein, or to perform its obligations as authorized hereunder, unless required by State law.

19.2 Protective Measures. Both parties shall take steps to safeguard the other party's Confidential Information against unauthorized disclosure, reproduction, publication or use, and to satisfy their obligations under this Agreement. Contractor shall have written policies governing access to, duplication and dissemination of, all such Confidential Information. Contractor shall advise and have agreements with its employees, agents and Subcontractors, if any, that they are subject to these confidentiality requirements. Contractor shall provide its employees, agents and Subcontractors with a copy of written explanation of these confidentiality requirements and have an agreement with such parties before access to confidential data is permitted. In addition, the use or disclosure by Contractor of any information concerning the State for any purpose not directly connected with the administration of the State's or Contractor's responsibilities with respect to Service(s) provided under the Agreement are prohibited except by prior written consent of the State.

19.3 Security Requirements. Each party, and its officers, employees, contractors, and Subcontractors shall at all times comply with all security standards, practices, and procedures which are equal to or exceed those of the State and which the other party may establish from time-to-time, with respect to information and materials which come into each party's possession and to which such party gains access under this Agreement. Such information and materials include without limitation all Confidential Information.

19.4 Injunctive Relief and Indemnity. Contractor will immediately report to the State any and all unauthorized disclosures or uses of the State's Confidential Information of which it or its Staff is aware or has knowledge. Contractor acknowledges that any publication or disclosure of the State's Confidential Information to others may cause immediate and irreparable harm to the State. If Contractor should publish or disclose such Confidential Information to others without authorization, the State shall immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period as described in Section 22.2.2 of the Agreement. Contractor shall indemnify and hold harmless the State from all damages, costs, liabilities and expenses (including without limitation reasonable attorneys' fees) caused by or arising from Contractor's failure to protect the State's Confidential Information.

19.5 Public Records Request. The State will notify Contractor of any and all public records requests for Contractor's Confidential Information in accordance with and subject to applicable State laws regarding disclosure of such Confidential information. If Contractor disagrees with disclosure of Contractor's Confidential Information by the State, Contractor shall have the right to contest its disclosure in accordance with State law.

19.6 Exceptions. The following information shall not be considered Confidential Information for the purposes of this Agreement: information previously known when received from the other party; information lawfully obtainable by the general public; information which now is or hereafter becomes publicly known by other than a breach hereof; information which is developed by one party independently of any disclosures made by the other party of such information; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the public.

19.7 Written Staff Agreements. Contractor agrees to cause Staff to which Contractor makes available (as permitted by this Agreement) the State's Confidential Information to agree in writing to observe and perform all provisions of this Section 19 of the Agreement applicable to such Staff.

19.8 Survival. The provisions of this Section 19 of the Agreement shall remain in effect following the termination or expiration of this Agreement.

20. OWNERSHIP AND RIGHTS.

20.1 State Ownership. The State shall own all right, title and interest in and to the Deliverables, including without limitation the Software (excluding ownership of the Licensed Materials for purposes of this Section of the Agreement). Contractor shall take all actions necessary and transfer ownership of the Deliverables to the State upon their Acceptance. All products of the Services, including without limitation the Deliverables and Data, shall be deemed works made for hire of the State for all purposes of copyright law, and copyright shall belong solely to the State. In the event that any such work is adjudged to be not a work made for hire, Contractor agrees to assign, and hereby assigns, all copyright in such work to the State. Contractor shall, at the expense of the State, assist the State or its nominees to obtain copyrights, trademarks, or patents for all such works in the United States and any other countries. Contractor agrees to execute all papers and to give all facts known to it necessary to secure United States or foreign country copyrights and patents, and to transfer or cause to transfer to the State all the right, title and interest in and to such works. Contractor also agrees to waive and not assert any moral rights it may have in any such works. The State shall peacefully and quietly have, hold, possess, and enjoy each Deliverable without suit, molestation, or interruption.

20.2 Contractor Ownership. Contractor represents and warrants that:

20.2.1 Contractor or its Subcontractors is the owner of the Licensed Materials and the Deliverables until the Deliverables are transferred to the State, without violating any rights of any third party;

20.2.2 There is no actual or threatened suit by any such third party based on an alleged violation of the rights granted or licensed by Contractor to the State hereunder.

20.3 FNS License. The State shall retain all ownership rights in any Software or modifications thereof and associated Documentation developed and/or designed with Federal financial participation. FNS reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use for Federal Government purposes such Software, modifications, and Documentation. Proprietary operating and third-party software packages which are provided hereunder at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership provisions in this Section.

21. INDEMNIFICATIONS.

21.1 Intellectual Property.

21.1.1 Contractor shall, at its expense, defend, indemnify, and hold harmless the State from, any claim or action against the State which is based on a claim that the State's use of the Deliverables or any one or part thereof under this Agreement infringes a patent, copyright, or other proprietary right or misappropriates a trade secret, and Contractor shall pay all costs, liabilities, damages and costs (including reasonable attorneys' fees) caused by or arising from such claim, provided that Contractor is promptly given notice of such claim. Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise, provided, however, that, when principles of government or public law are involved, the State shall have the option to participate in such action at its own expense.

21.1.2 In case the Deliverables, or any one or part thereof, are in such action held to constitute an infringement or misappropriation, or the use thereof is enjoined or restricted, Contractor shall, at its own expense and in the following order of priorities: procure for the State the right to continue using the Deliverables; or modify the Deliverables to comply with the Specifications and to not violate any intellectual property rights. If neither of these options can reasonably be taken, or if the use of such Deliverables by the State shall be prevented by injunction, Contractor agrees to take back such Deliverables and refund any sums the State has paid Contractor and make every effort to assist the State of California

in procuring substitute Deliverables at a cost similar to the amount paid for the original infringing product(s). If, in the sole opinion of the State, the return of such infringing Deliverables makes the retention of other items of Equipment or Software acquired from Contractor under this Agreement impractical, the State shall then have the option of terminating the Agreement, or applicable portions thereof, without penalty or termination charge to the State. Contractor agrees to take back such Deliverables, including but not limited to Equipment or Software, and refund any sums the State has paid Contractor.

21.1.3 Notwithstanding the above, Contractor shall not indemnify the State to the extent that such claims arise from the State's modifications or other alterations of the Deliverables and to the extent that combining such modifications and alterations to the Deliverables caused such infringement or misappropriation claim. However, the State shall be able to use the Deliverables in any legally permissible way, consistent with its ownership rights.

21.2 Federal Sanctions or Penalties. Contractor shall indemnify the State for any funds the State pays to the Federal government or any lost Federal funding as a result of sanctions, penalties or other delays resulting from or caused by failure of the System to meet required Specifications in accordance with the original Work Plan.

21.3 General.

21.3.1 Contractor shall, at its expense, indemnify, defend, and hold harmless the State, including employees, officers, contractors and agents from and against any losses, liability, damages, penalties, costs, fees, including without limitation reasonable attorneys' fees, or expenses from any claim or action, including without limitation for bodily injury or death, caused by or arising from the acts or omissions of Contractor, its officers, employees, agents, or Subcontractors, including without limitation losses for errors or omissions of Contractor: arising from a breach of its warranty in Section 13.5 of the Agreement (Year 2000 Compliance); arising from financial losses resulting from preactivated EBT Cards that are forwarded to Recipients from Card manufacturers; or arising from fraud and abuse on the part of Contractor or its representatives or Subcontractors. These liabilities shall include, but not be limited to:

21.3.1.1 Any duplicate postings to a Recipient account;

21.3.1.2 Any losses from transactions performed with Cards issued but not activated by the Recipient and/or Contractor;

21.3.1.3 Any losses from funds drawn from an account after the Card holder or County notified Contractor that the Card had been lost or stolen;

21.3.1.4 Any damages or losses suffered by a Federal or State agency due to negligence on the part of Contractor; and

21.3.1.5 Any loss of benefits caused by fraud or abuse on the part of Contractor or its representatives or subcontractors.

21.3.2 Contractor's obligation to indemnify, defend and hold harmless includes any claim by Contractor's agents, employees, or representatives, or any Subcontractor or its employees.

22. TERMINATION.

22.1 Contractor's Rights of Termination. Contractor may terminate this Agreement if the State has materially breached this Agreement, provided Contractor has given the State notice of such breach, and the State has failed to cure such breach within 90 days after receipt of such notice.

22.2 State's Rights of Termination.

22.2.1 Funding Changes. The State may immediately terminate this Agreement, in whole or in part, effective upon delivery of notice to Contractor, or at such later date as may be established in writing by the State, which termination shall not be deemed a termination for default, under any of the conditions described below in this Section 22.2.1. In the event of termination by the State under Section 22.2.1, Contractor shall be entitled only to payments in accordance with the terms of this Agreement for Services rendered prior to the effective date of termination. In the event the State terminates this Agreement pursuant to this Section 22.2.1, following are such conditions:

22.2.1.1 In the event funding for this Agreement is not appropriated, obtained, reduced, changed, eliminated or otherwise modified by applicable funding sources; or

22.2.1.2 If Federal or State statute, regulations or guidelines are modified, changed, or interpreted in such a way that the Services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.

22.2.2 Default. The State, by notice to Contractor, may immediately terminate the whole or any part of this Agreement for Contractor's default and be relieved of the payment of any consideration to Contractor if Contractor fails to correct or cure any of the following failures or events within 30 days of receipt of notice thereof by the State;

22.2.2.1 If Contractor fails to provide Services called for by this Agreement within the time specified in the Project Work Plan or this Agreement, or any extension thereof including without limitation failing to: (1) obtain Acceptance of each of the Deliverables; (2) meet the milestones for Federal System Certification; or (3) begin any Eligibility System Pilot;

22.2.2.2 If any license or certification required by law or regulation to be held by Contractor to provide the Services required by this Agreement is for any reason denied, revoked, suspended, or not renewed;

22.2.2.3 If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the Services as to endanger performance of this Agreement in accordance with its terms;

22.2.2.4 If the State determines that the health, safety, or welfare of persons receiving Services may be in jeopardy;

22.2.2.5 Upon the State's verifying that Contractor has engaged in fraudulent acts in connection with the performance of this Agreement;

22.2.2.6 If Contractor is unable to remedy Performance Standard Deficiencies and the System fails the Performance Standard levels for two consecutive calendar months following Pilot Acceptance;

22.2.2.7 If Contractor is more than 90 days behind schedule as established in the Project Work Plan in:

22.2.2.8 If Contractor habitually and regularly fails to provide the Services, Equipment, or Software, as required by this Agreement, within the time specified in the Project Work Plan and in accordance with the Specifications; or

22.2.2.9 If the State finds that there is a violation by Contractor of the State's then current conflict of interest rules, unless otherwise agreed to by the State in writing.

22.2.3 Gratuities. The State may, in addition to its other rights, immediately terminate this Agreement if any gratuities in the form of entertainment, gifts, or otherwise, were offered or given by Contractor to an employee of the State, with a view towards securing an agreement or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to this Agreement.

22.2.4 If Contractor is unable to correct all Deficiencies in a Deliverable or Service within the number of days required in the Project Work Plan following the Deliverable's Delivery Date or Service performance date, the State may, at its option: immediately terminate the Agreement without penalty to the State and return the Deliverable to Contractor and such other Deliverables the State decides to return to Contractor, with such a termination being deemed a termination due to the default of Contractor hereunder; request Contractor to provide a replacement Deliverable for further review or reperform the Service; or continue reviewing the Deliverable and require Contractor to continue until Deficiencies are corrected or eliminated. If the State returns the Deliverable to Contractor, Contractor shall immediately return to the State all payments made to Contractor for the Deliverable and Services rendered therefor, if any, and for such other Deliverables which the State returns to Contractor. Contractor shall be liable for all inbound and outbound preparation and shipping costs for the Deliverables returned pursuant to this provision. The State's option to terminate this Agreement shall remain in effect until Acceptance of all of the Deliverables.

22.2.5 If Contractor is unable to correct all Deficiencies in the System within the number of days of the System's Confirmation as required in the Project Work Plan, the State may, at its option: immediately terminate the Agreement, which termination shall be deemed to be due to Contractor's default, without penalty to the State and, at the State's option, require Contractor to remove any Equipment at the Sites; request Contractor to provide replacement Software for further System Acceptance Tests; or continue performing System Acceptance Tests on the System and require Contractor to continue until Deficiencies are corrected. In the event the State terminates the Agreement as provided above in this section, Contractor shall return to the State all amounts paid by the State for the System, if any and for Deliverables which the State returns to Contractor. The State's option to terminate this Agreement shall remain in effect until a successful completion of the System Acceptance Tests.

22.2.6 If Contractor is unable to satisfy all FNS requirements for the System within the number of days of the System's Acceptance as required in the Project Work Plan, the State may, at its option: immediately terminate the Agreement, which termination shall be deemed to be due to Contractor's default, without penalty to the State and, at the State's option, require Contractor to remove any Equipment at the Sites; request Contractor to repair the Software for further System Acceptance Tests; or continue performing the System Acceptance Test on the System and require Contractor to continue until all FNS requirements are satisfied. In the event the State terminates the Agreement as provided above in this section, Contractor shall return to the State all amounts paid by the State for the System, if any and all Deliverables the State returns to Contractor. The State's option to terminate this Agreement shall remain in effect until successful completion of the System Acceptance Test.

22.2.7 If Contractor is unable to correct all such Deficiencies in the System during Pilot Evaluation within the number of days of the System's installation as described in the Schedule as the deadline for successful completion of the Pilot Evaluation for the Pilot County, the State may, at its option: immediately terminate the Agreement, which termination shall be deemed to be due to Contractor's default, without penalty to the State and, at the State's option, require Contractor to remove any Equipment installed at the Pilot Sites; request Contractor to provide replacement Software and Equipment for further Pilot Evaluation for the Pilot County; or continue performing such Pilot Evaluation on the System and require Contractor to continue until Deficiencies are corrected. In the event the State terminates the Agreement as provided above in this section, Contractor shall return to the State all amounts paid by the State, if any, for the System and all Deliverables which the State returns to Contractor. The State's option to terminate this Agreement shall remain in effect until a successful completion of the Pilot Evaluation.

22.2.8 If Contractor is unable to correct all Deficiencies arising during the Eligibility System Pilots and to otherwise complete Implementation in accordance with the requirements in the Agreement, the State may, at its option: immediately terminate the Agreement, which termination shall

be deemed to be due to Contractor's default, without penalty to the State and, at the State's option, require Contractor to remove any Equipment at the Sites; or, request Contractor to provide replacement Software or a replacement System, and provide its other Services to complete Implementation. In the event the State terminates the Agreement as provided above in this section, Contractor shall return to the State all amounts paid by the State for the System and Services, if any, and for Deliverables which the State returns to Contractor. In addition, in the event of a termination by the State as provided above in this section, Contractor shall assist the State in reconverting its systems and processes to be able to issue coupons and warrants to its Recipients, and Contractor shall be liable for all costs associated with or resulting from any such reconversion. The State's option to terminate the Agreement shall remain in effect until a successful completion of Implementation.

22.2.9 If the State terminates this Agreement due to Contractor's default or a conflict of interest as described above in this Section, the State shall thereupon have the right to lease or purchase on the open market Services and products hereunder required in lieu thereof, and Contractor shall be liable for damages as authorized by law. The State shall thereupon have the right to deduct from any monies due or that thereafter become due to Contractor or to require Contractor to pay the State for all additional costs for such Services and products including, but not limited to, the following:

22.2.9.1 Any cost difference between the Deliverables and Services and the replacement products and services; and

22.2.9.2 All reasonable administrative costs directly related to the replacement agreement such as costs of competitive bidding, mailing, advertising, applicable excess financing charges or penalties, staff time and the like.

22.2.10 Under conditions of termination or cancellation by the State for Contractor's default or breach, the State may withhold from any amounts due Contractor for such Deliverables or Services such sum as the State determines to be necessary to protect the State against loss or liability and the State will make a reasonable effort to mitigate damages sustained.

22.2.11 If the State is required to reprocur or acquire from another vendor or vendors any Service covered by this Agreement due to a termination for default of the Contractor, Contractor shall be ineligible to competitively bid on the reprocurement(s), in whole or in part.

22.2.12 If, after notice of termination for default, it is determined by the State or a court of competent jurisdiction that Contractor was not in default or that Contractor's failure to perform or make progress in performance was due to causes totally beyond the control and without any error or negligence of Contractor or any of its Subcontractors or suppliers, the notice of termination may be deemed by the State to have been issued as a termination for the convenience of the State, and the rights and obligations of the parties shall be governed accordingly.

22.3 Termination for Convenience. In addition to its other rights to terminate, the State may terminate this Agreement in whole or in part upon 90 days prior notice to Contractor when it is determined to be in the best interests of the State. During this 90-day period, to the extent the State terminates this Agreement under this Section, Contractor shall wind down and cease its Services as quickly and efficiently as possible, without performing unnecessary Services or activities and by minimizing negative effects on the State from such winding down and cessation of Services. If this Agreement is so terminated, the State shall be liable only for payment in accordance with the terms of this Agreement for Services rendered prior to the effective date of termination, and the State shall be relieved of any further obligation related to such Services.

22.4 Termination by Mutual Agreement. This Agreement may be terminated by mutual written agreement of both parties.

22.5 Termination Procedure.

22.5.1 The rights and remedies of the State provided in Sections 22.2, 22.3 and 22.4 of the Agreement shall apply in the event of termination of the Agreement for default or convenience, State of California

shall not be exclusive, and are in addition to any other rights and remedies by law or equity or under this Agreement.

22.5.2 In the event of termination, Contractor shall deliver and/or convey title to the State or to another entity named by the State any property produced under the Agreement, including without limitation the Deliverables, as designated by the State.

22.5.3 In the event of termination, the State shall pay Contractor the prices stated in the Agreement for the Deliverables and Services for which the State has given its Acceptance, subject to the State's rights and remedies herein. If the termination is for convenience, the State shall also pay an amount agreed to by the parties for:

22.5.3.1 Partially completed work and Services, if work products are useful and usable by the State;

22.5.3.2 Other property or Services which are accepted by the State; and

22.5.3.3 Protection and preservation of the property.

22.5.4 In arriving at the amount due Contractor, there shall be deducted all payments to Contractor under the terminated portion of this Agreement and any claim which the State has against Contractor under this Agreement.

22.5.5 If the termination is for convenience and the parties are not able to agree on such amounts, Contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by the State, bearing on such claim. If Contractor fails to file a termination claim within 90 days from the effective date of termination, the State may pay Contractor prices described in this Agreement for goods or Services for which the State has given its Acceptance under the Agreement.

22.5.6 Upon and following termination or expiration of this Agreement, each party will assist the other party in the orderly termination of the Agreement and the transfer of all assets, tangible and intangible, and of all Services, as may facilitate the orderly, non-disrupted business continuation of the State. Towards this end, Contractor shall assist the State at the State's request in transitioning the Services to another vendor in accordance with instructions provided by the State and the System Transfer Plan Deliverable and as described in Section 14.19 above. In addition, during the transition period, the State shall have a non-exclusive license at no additional charge to use, reproduce and modify any Software that was being used by the State at the time of termination. Such use shall be subject to the terms of Sections 6.5, 6.6, 19 and 20 of the Agreement.

22.5.7 After Contractor receives a notice of termination, and except as otherwise directed by the Contracting Officer, Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Section:

22.5.7.1 Stop work on the date and to the extent specified in a notice of termination;

22.5.7.2 Place no further orders and enter into no subcontracts for materials, services or facilities except as necessary to complete the portion of the work not terminated;

22.5.7.3 Terminate all subcontracts to the extent they relate to the work terminated;

22.5.7.4 Settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts, the approval or ratification of which will be final for purposes of this Section;

22.5.7.5 To the extent directed by the Contracting Officer, assign and deliver to the State all of Contractor's rights and interest in and to any Deliverables, as well as work in process, completed work, supplies, other material produced or acquired for the work terminated, completed or partially completed plans, drawings, information, and other property that, if the Agreement had been completed, would be required to be furnished to the State;

22.5.7.6 Complete performance of the work not terminated; and

22.5.7.7 Take any action that may be necessary or as the State may direct for the protection and preservation of the property related to this Agreement that is in the possession of Contractor and in which the State has or may acquire an interest and to mitigate any potential damages or requests for adjustment or termination settlement to the maximum practical extent.

23. GENERAL PROVISIONS.

23.1 Americans With Disabilities Act (ADA) of 1990, Public Law 101-336, 28 C.F.R. Part 35. Contractor assures the State that it shall comply with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

23.2 Assignment. Contractor may not assign or transfer this Agreement or any of its rights hereunder, nor delegate any of its duties hereunder, without the prior written consent of the State. Any attempted assignment, transfer or delegation in contravention of this Section of the Agreement shall be null and void. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their permitted successors and assigns.

23.3 Assignment of Antitrust Actions. The following provisions of Government Code Section 4552, 4553, and 4554 (Statutes of 1978, Ch. 414) shall be applicable to Contractor.

23.3.1 "In submitting a bid to a public purchasing body, the Bidder [**i.e., Contractor**] offers and agrees that if the bid is accepted, it will assign to the purchasing body [**i.e., the State**] all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act [**Chapter 2 (commencing with section 16700) of part 2 of division 7 of the Business and Professions Code**], arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder."

23.3.2 "If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery."

23.3.3 "Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured hereby, or (b) the assignee declines to file a court action for the cause of action."

23.4 [Attorneys' Fees and Costs. If any litigation is brought to enforce, or arises out of, the Agreement or any term, clause, or provision hereof, the prevailing party shall be awarded its reasonable attorneys' fees together with expenses and costs incurred with such litigation, including necessary fees, costs, and expenses for services rendered, as well as subsequent to judgment in obtaining execution thereof.]

23.5 Authority. Contractor shall have no authority to bind, obligate or commit the State by any representation or promise without the prior written approval of the State.

23.6 Authorization. Contractor has full power and authority to enter into and perform the Agreement, and the person signing the Agreement on behalf of Contractor has been properly authorized and empowered to enter into the Agreement and to bind Contractor to each and every one of the terms, conditions and obligations set forth herein.

23.7 Binding Effect. Each party agrees that the Agreement binds it and each of its employees, agents, independent contractors, and representatives.

23.8 Child Support Compliance Act. Contractor acknowledges in accordance with Public Contract Code section 7110 that:

23.8.1 Contractor recognizes the importance of child and family support obligations and shall comply with all applicable state and federal laws relating to child and family support enforcement including, but not limited to, disclosure of information and compliance with earnings assignment orders as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

23.8.2 Contractor to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

23.9 Compliance With Health and Safety and Related Laws. Contractor will at all times comply with all applicable worker's compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The State of California, including but not limited to the State agency executing this Agreement, shall not be held responsible in any way for claims filed by Contractor or its employees for services performed under the terms of this Agreement.

23.10 Conflicts Between Documents; Order of Precedence. In the event that there is a conflict between the documents comprising the Agreement, the order of precedence shall be as follows:

23.10.1 The terms and conditions in the body of this Agreement;

23.10.2 The Exhibits to the Agreement;

23.10.3 The Project Management Plan;

23.10.4 The Statewide Implementation Plan;

23.10.5 The Detailed System Design;

23.10.6 The General System Design;

23.10.7 The ITP; and

23.10.8 The Proposal.

23.11 Conflict of Interest.

23.11.1 During the term of this Agreement, Contractor shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with Contractor fully performing its obligations under this Agreement.

23.11.2 Additionally, Contractor acknowledges that, in governmental contracting, even the appearance of a conflict of interest is harmful to the interest of the State. Thus, Contractor agrees to refrain from any practices, activities or relationships which could reasonably be considered to be in conflict with Contractor's fully performing his/her obligations to the State under the terms of the Agreement, without the prior written approval of the State. In the event that Contractor is uncertain

whether the appearance of a conflict of interest may reasonably exist, Contractor shall submit to the State a full disclosure statement setting forth the relevant details for the State's consideration and direction. Failure to promptly submit a disclosure statement shall be grounds for termination of the Agreement.

23.11.3 Contractor acknowledges it is aware of and shall take no action which causes State employees or officers to violate the following provisions regarding current or former State employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, Contractor will contact the State immediately for clarification:

23.11.3.1 Current State Employees (PCC 10410)

1) No State officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any State agency unless the employment, activity, or enterprise is required as a condition of regular State employment.

2) No officer or employee shall contract on that person's own behalf as an independent contractor with any State agency to provide goods or services.

23.11.3.2 Former State Employees (PCC 10411)

1) For the two-year period from the date of leaving State employment, no former State officer or employee may enter into an agreement in which that person was engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the Agreement while employed in any capacity by any State agency.

2) For the 12-month period from the date of leaving State employment, no former State officer or employee may enter into an agreement with any State agency if that person was employed by that State agency in a policy-making position in the same general subject area as the proposed agreement with the 12-month period prior to that person leaving State service.

23.12 Dispute Resolution Process.

23.12.1 The parties shall use their best, good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Agreement. When a bona fide dispute arises between the State and Contractor, both parties shall attempt to resolve the dispute pursuant to this Section 23.12 if they agree in writing that use of this process shall be appropriate and likely to resolve the dispute. Both parties shall continue without delay to carry out all their respective responsibilities under this Agreement while attempting to resolve the dispute under this Section. When a bona fide dispute arises between the State and Contractor subject to this Section, the Project Manager and Project Director shall each notify the other of the dispute, with the notice specifying the disputed issues and the position of the party submitting the notice. The Project Manager and Project Director shall use their best, good faith efforts to resolve the dispute within 10 days of submission by either party to the other of such notice of the dispute. If the Project Manager and Project Director are unable to resolve the dispute within such 10 days, either party may request that the dispute be escalated for resolution by the State's Deputy Directors of HWDC, DGS, and the Department of Social Services and Contractor's Executive Officer. Such request must specify the disputed issues, the position of the party submitting the notice and requestor's understanding of the relative positions of the parties. The State's Deputy Directors of HWDC and the Department of Social Services and Contractor's Executive Officer shall use their best, good faith efforts to resolve the dispute within 10 days of submission by either party of a request for these parties to resolve the dispute. If the State's Deputy Directors of HWDC and the Department of Social Services and Contractor's Executive Officer are unable to resolve the dispute within such 10 days, the parties may pursue their available legal and equitable remedies.

23.12.2 Exceptions. The parties agree that, except as provided in Section 19.4 of this Agreement (Injunctive Relief), the dispute process described above in this Section shall precede any action in a judicial or quasi-judicial tribunal if the parties agree in writing to utilize this process. This dispute resolution process is the sole administrative remedy available under the Agreement.

23.13 Drug-Free Workplace. Contractor certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

23.13.1 Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).

23.13.2 Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:

23.13.2.1 The dangers of drug abuse in the workplace;

23.13.2.2 The person's or organization's policy of maintaining a drug-free workplace;

23.13.2.3 Any available counseling, rehabilitation and employee assistance programs; and,

23.13.2.4 Penalties that may be imposed upon employees for drug abuse violations.

23.13.3 Provide, as required by Government Code Section 8355(c), that every employee who works on the Agreement will receive a copy of the company's drug-free policy statement and will agree to abide by the terms of the Contractor's statement as a condition of employment on the Agreement.

23.14 Entire Agreement; Acknowledgement of Understanding. The State and Contractor acknowledge that they have read the Agreement and the attached Exhibits, understand them and agree to be bound by their terms and conditions. Further, the State and Contractor agree that the Agreement and the Exhibits are the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Agreement and supersede all proposals, letters of intent or prior agreements, oral or written, and all other communications and representations between the parties relating to the subject matter of the Agreement.

23.15 Forced, Convict, and Indentured Labor. In accordance with PCC Section 6108, Contractor warrants that no foreign-made equipment, materials, or supplies furnished to the State pursuant to this Agreement are or shall be produced in whole or in part by forced labor, convict labor, or indentured labor.

23.16 Force Majeure. Neither Contractor or the State shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, or other disasters, whether or not similar to the foregoing. If the failure to perform continues for more than 30 days, the State may terminate the Agreement without liability.

23.17 Governing Law and Venue. This Agreement shall be governed in all respects by and construed in accordance with the laws of the State of California. By execution of the Agreement, Contractor acknowledges the jurisdiction for any action hereunder shall be the Superior Court for the State of California. The venue of any action hereunder shall be in the Superior Court for Sacramento County, California.

23.18 Headings. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23.19 Independent Contractor Relationship. Contractor shall perform its duties hereunder as an independent contractor and not as an employee, officer or agent of the State. Contractor shall, in its sole discretion, determine when, where, and how Services under this Agreement are performed, including but not limited to, supervising its employees' or Subcontractors' methods of working and otherwise controlling their working conditions, and, except where otherwise provided, furnishing their tools and equipment. Contractor acknowledges and certifies that its directors, officers, partners, employees, subcontractors, affiliates and agents are not officers, employees or agents of the State or the State of California. Contractor shall not hold itself out as nor claim to be an officer, employee or agent of the State or the State of California by reason of this Agreement. Neither party shall have any right, power or authority to create any obligation, express or implied, on behalf of the other except as defined in this Agreement or as mutually agreed to under the terms of this Agreement. Contractor shall pay when due all required employment taxes and income tax withholding, including all Federal and state income tax and local head tax and any monies paid pursuant to the Agreement. The State shall not pay Federal taxes, Social Security taxes or Labor and Industries contributions for Contractor. Contractor's employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to State employees. Contractor shall defend, indemnify and hold harmless the State and the State's officers and directors, agents, contractors and employees, and the State from any claim, action, taxes, premiums, assessments, expenses, liabilities, costs, settlements or judgments, including attorneys fees at trial and at appeal, grounded in an allegation that any such person is an employee of the State or the State.

23.20 Legal and Regulatory Compliance. Contractor shall comply with all applicable Federal, State, County and local laws, regulations, codes, standards and ordinances during the term. If any Services performed by Contractor are subsequently found to be in violation of such laws, regulations, codes, standards and ordinances, Contractor shall solely be responsible for bringing the Services into compliance at no additional cost to the State.

23.21 Litigation.

23.21.1 Contractor shall promptly notify the State in the event that Contractor learns of any actual litigation in which it is a party defendant in a case which involves Services provided under the Agreement. Contractor shall promptly after being served with a summons, complaint, or other pleading which has been filed in any Federal or State court or administrative agency, deliver copies of such document(s) to the HWDC Director. The term "litigation" includes but is not limited to an assignment for the benefit of creditors and filings in bankruptcy, reorganization and/or foreclosure.

23.21.2 In the case the State shall, without any fault on its part, be made a party to any litigation commenced by or against Contractor in connection with this Agreement, Contractor shall pay all costs and expenses incurred by or imposed on the State, including attorneys' fees.

23.22 Maintenance and Audit of Records.

23.22.1 Contractor and its Subcontractors shall maintain a complete file of all records, documents, communications, and other materials which pertain to the Project or the delivery of Services under this Agreement. These records shall be maintained according to generally accepted accounting principles and shall be easily separable from other Contractor records. Contractor shall maintain for a period of six years after the expiration or termination of this Agreement the above-described records and records that are sufficient to:

23.22.1.1 Document the performance of all acts required by the Agreement;

23.22.1.2 Substantiate Contractor's statement of its organization's structure, tax status, capabilities, and performance;

23.22.1.3 Demonstrate accounting procedures and practices which sufficiently and properly reflect all expenditures made by Contractor to perform under the Agreement, and all direct and indirect costs of any nature invoiced in the performance of this Agreement;

23.22.1.4 Ascertain that personnel policies, procedures and practices were in compliance with the Agreement and applicable State and Federal law; and

23.22.1.5 Ascertain that all taxes and insurance required by State and Federal law and by the terms of the Agreement were paid by Contractor.

23.22.2 Contractor agrees that auditors from HWDC, DGS, the California Bureau of State Audits, FNS, or their designated representative(s) shall have the right to inspect, review and copy any records and supporting documentation pertaining to performance of compliance with or quality assurance under this Agreement at any time during or after the performance of the Agreement up to six years after the termination or expiration of the Agreement. Contractor agrees to maintain such records for possible audit for a minimum of six years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

23.22.3 Whenever reasonably possible, the State shall give Contractor notice of any monitoring, auditing, observation and/or visits by authorized persons to Contractor's place(s) of business. Such audit may include an audit of the books and records of Contractor, or any of its Subcontractors or prospective Subcontractors, which are related to the cost of pricing data, and the Agreement or any subcontracts. Upon notification, except in exceptional circumstances, by the State to Contractor, during any working day between the hours of 8:00 a.m.-5:00 p.m., local time, all documentation, including accounting records, related to the Agreement shall be available for and subject to review, inspection, copying (at the State's expense), and audit by the State or the U.S. Department of Agriculture and other personnel duly authorized by the State.

23.22.4 All such records, documents, communications, and other materials shall be the property of the State unless otherwise specified herein and shall be maintained by Contractor and made accessible within Sacramento County on behalf of the State, for a period of six years from the date of final payment under this Agreement, or for such further period as may be necessary to resolve any matters which may be pending, or until an audit has been completed with the following qualification: If an audit by or on behalf of the Federal and/or State government has begun but is not completed at the end of the six year period, or if audit findings have not been resolved after a six year period, the materials shall be retained until the resolution of the audit findings.

23.22.5 The records retention, review, inspection, audit, interview, copying and other requirements of this section shall be incorporated by Contractor in any of its subcontracts.

23.23 Modifications. No modification, amendment, alteration or variation to the terms of the Agreement and no waiver of any provisions hereof shall be valid unless in writing and signed by duly authorized representatives of the parties hereto. No oral understanding or agreement not incorporated in the Agreement shall be binding on any of the parties hereto. Contractor shall not be authorized to commence performance until such approval of the amendment has been obtained.

23.24 Nondiscrimination. During the performance of this Agreement, Contractor and its Subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (including cancer), age, marital status, use of family and medical care leave and pregnancy disability leave. Contractor and its Subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its Subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its Subcontractors shall give written notice of their obligations under this Section to labor organizations with which they have a collective bargaining or other Agreement. Contractor shall

include the nondiscrimination and compliance provisions of this Section in all subcontracts to perform work under the Agreement.

23.25 Notice of Delay. When Contractor has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, Contractor shall, within five working days, give notice thereof, including all relevant information with respect thereto, to the State.

23.26 Notices. Notice will deemed to be given by the parties under the Agreement if in writing and delivered personally or by messenger, or mailed by first-class, registered, or certified mail, postage prepaid, to the addresses noted below in this Section. Each party will provide notice to the other of changes to such addresses.

Notice Address for Contractor:

Notice Address for the State:

23.27 Publicity. Contractor shall not refer to the State of California any office, agency, or officer thereof, or any State employee, including the head of the State, the State procurement officer, or to the Services or Deliverables, or both, provided under this Agreement, in any of Contractor's brochures, advertisements or other publicity of Contractor without the prior written consent of the Contracting Officer. Contractor agrees to submit to HWDC's Director all advertising, sales promotions, news releases, and other publicity matters relating to the Agreement or any Deliverable or Service furnished by Contractor wherein the State's name is mentioned or language used from which the connection of the State's name therewith may, in State's judgment, be inferred or implied. All media contacts with Contractor about the subject matter of this Agreement shall be referred to the Contracting Officer. For purposes of this Section, the "State" shall be deemed to be the "State of California."

23.28 Remedies. No remedy conferred by any of the specific provisions of the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies.

23.29 Severability. If any term or condition of the Agreement shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law. To that end, the provisions of the Agreement are declared to be severable.

23.30 Subcontractors.

23.30.1 Contractor may, with prior written permission from the State, enter into subcontracts with third parties for the performance of any part of Contractor's duties and obligations. Any such permission may be rescinded for reasonable cause. Contractor is responsible and liable for the proper performance of and the quality of any work performed by any and all Subcontractors. In addition, Contractor's use of any Subcontractor shall not cause the loss of any warranty from Contractor or any Software manufacturer or provider. The State reserves the right to reject or refuse admission to any Contractor or Subcontractor personnel whose workmanship, in the reasonable judgment of the State, is deemed to be substandard. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor to the State for any breach in the performance of Contractor's duties. Any permitted Subcontractor must submit to the State a tax clearance certificate from the **[Director of State of California**

Taxation] showing that all delinquent taxes have been paid. Subcontracts permitted by the State shall be subject to the requirements of this Agreement.

23.30.2 Contractor warrants and agrees that any subcontract resulting from its performance under the terms and conditions of this Agreement shall include a provision that the Subcontractor will abide by the terms and conditions hereof, as well as all other applicable Federal and State laws, and rules and regulations pertinent hereto that have been or may hereafter be established. Also, Contractor warrants and agrees that all subcontracts shall include a provision that the subcontractor shall indemnify and hold harmless the State of California, the State. Any agreement between Contractor and its subcontractors shall require the subcontractors to adhere to the same Performance Standards and other standards required of Contractor. Subcontractors must be certified to work on any equipment for which their services are obtained.

23.31 Survival. The terms, conditions and warranties contained in the Agreement that by their sense and context are intended to survive the performance hereof by the parties hereunder shall so survive the completion of the performance, cancellation or termination of the Agreement. In addition, the terms of [Sections 13.5, 17, 18, 19, 20, 21, 22.5 and 23] (Year 2000 Compliance, Insurance, the State Property, Confidential Information, Ownership and Rights, Indemnifications, Termination Procedure, and General Provisions) of the Agreement shall survive the termination of this Agreement.

23.32 Third Party Beneficiaries. It is expressly understood and agreed that the enforcement of the terms and conditions of the Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the State and Contractor. Nothing contained in this agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and Contractor that any such person or entity, other than the State or Contractor, receiving services or benefits under this agreement shall be deemed an incidental beneficiary only.

23.33 UCC Applicability.

23.33.1 Except to the extent the sections of this Agreement are clearly inconsistent, this Agreement shall be governed by any applicable sections of Division 2 of the Uniform Commercial Code of the State of California.

23.33.2 To the extent this Agreement entails delivery or performance of Services, such Services shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when to do so would result in an absurdity.

23.34 Waiver. Waiver of breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms and conditions of the Agreement unless stated to be such in writing and signed by the Contracting Officer or his/her delegate and approved as to form and content by the Office of Attorney General. Except as otherwise specifically provided herein, any failure or delay by either party to exercise or partially exercise any right, power or privilege under the Agreement shall not be deemed a waiver of any such right, power, or privilege under the Agreement. Any waivers granted by the State for breaches hereof shall not indicate a course of dealing of excusing other or subsequent breaches. The State's review, approval, acceptance of, and payment of fees for acts or Services under the Agreement shall not be construed to operate as a waiver of any rights under the Agreement or of any cause of action arising out of Contractor's failure to perform.

23.35 Water or Air Pollution Violation. Under the State laws, Contractor shall not: (1) violate any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) be subject to a cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally be determined to be in violation of provisions of Federal law relating to air or water pollution.

In witness whereof, the parties have set their hands hereunto as of the Execution Date.

THE HEALTH AND WELFARE AGENCY DATA
CENTER, STATE OF CALIFORNIA

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Notice Address: _____

Notice Address: _____

Attn: Project Director, EBT Project

Attn: _____

**APPROVED AS TO FORM
BY THE OFFICE OF THE ATTORNEY GENERAL**

**EXHIBIT A
FINANCIAL MATTERS**

1. Invoices
 - a. CPCM Amounts
 - b. Unit Prices
2. Work Authorization Rates
3. Monthly Maintenance Rates
4. EBT System Innovation Rates

EXHIBIT B**MILESTONE DATES AND DELIVERABLES**

The following is a partial list of milestone dates and Deliverables that would be included in the Project Work Plan.

Milestone or Deliverable	Milestone Date
1. Project Management Plan including Project Work Plan, Staffing, Quality Assurance, and Risk Management	30 days after Execution Date
2. Statewide Implementation Plan including Implementation Work Plan, County Implementation Work Plan Template, Pilot County Work Plan, Readiness Determination descriptions	90 days after Execution Date
3. POS Deployment Plan	90 days after Execution Date
4. Model Retailer Agreements	According to Project Work Plan
5. Retailer Interface and Certification Specifications	According to Project Work Plan, no later than four months before Pilot Implementation
6. Farmers' Market System Innovation Recommendation	90 days after Execution Date
7. Requirements Definition	According to Project Work Plan
8. General System Design	According to Project Work Plan
9. Detailed System Design	According to Project Work Plan
10. Interface Specifications	In conjunction with Detailed System Design
11. Interface Planning Guide	In conjunction with Detailed System Design
12. Reports Catalog and Reports User Manual	According to Project Work Plan, no later than Detailed System Design
13. Settlement and Reconciliation Plan	According to Project Work Plan, no later than Detailed System Design
14. System Security Plan	According to Project Work Plan, no later than Detailed System Design
15. Backup, Disaster Recovery, and Business Continuation Plan	According to Project Work Plan, no later than Detailed System Design
16. System Test Plan including test scripts	According to Project Work Plan

Milestone or Deliverable	Milestone Date
17. Capacity Plan	According to Project Work Plan, but no later than System Test Plan
18. Third Party Processor, POS and Network Certification Plan	According to Project Work Plan, but no later than System Test Plan
19. Comprehensive Training Plan for State and County Staff, Recipients and Retailers	According to Project Work Plan
20. State and County Training Materials and User Manuals	According to Project Work Plan
21. Recipient Training Materials in all languages including pamphlets, wallet cards, and notices	According to Project Work Plan
22. Recipient Training Videos including draft scripts, rough cut videos and final videos in all required languages	According to Project Work Plan
23. Retailer Training Materials in English and Spanish	According to Project Work Plan
24. Card and Card Sleeve Design Samples	According to Project Work Plan
25. Final Card and Card Sleeve Design	According to Project Work Plan
26. County Specific Cash Access Plan	90 days before Implementation in each county using the System for cash issuance
27. Retailer Operations Manual and Operating Rules	According to Project Work Plan
28. Retailer Signage	According to Project Work plan
29. Functional Demonstration	According to Project Work plan, no later than six weeks before System Acceptance Test
30. System Acceptance Test	According to Project Work Plan, no later than nine months after Execution Date
31. Certification of all FNS Retailers	No later than one month prior to implementation in any region.
32. Live Demonstration	According to Project Work Plan
33. Eligibility System Interface Test	According to Project Work plan
34. Final Test Reports	Ten days after the completion of any test
35. Revised Detailed System Design and other supporting System documentation	As required, no later then one month after completion of any test

Milestone or Deliverable	Milestone Date
36. Pilot Implementation	No later than 10 months after Execution Date
37. System Transition Plan	12 months after Execution Date
38. Eligibility System Pilot(s)	According to Project Work Plan

EXHIBIT C**EQUIPMENT**

ADMINISTRATIVE EQUIPMENT FOR USE BY STATE, COUNTY, AND FEDERAL OFFICES

Type of Equipment	Manufacturer	Model #
PIN Selection and Encryption Device		
Card Embosser		
Administrative Terminal		

EBT-ONLY POS EQUIPMENT FOR USE BY RETAILERS

Type of Equipment	Manufacturer	Model #
POS Device		

SOFTWARE

Operating System Software
Third Party Software
Interfaces

EXHIBIT D**CERTIFICATIONS**

I, the official named below CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to and do legally bind Contractor to comply with the clause(s) listed below. This certification is made under the laws of the State of California.

Official's Name	
Date Executed	Executed in the County of
Contractor's Signature	
Title	
Legal Business Name	Federal ID Number

1. Statement of Compliance

Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103). Refer to Article 1, General Terms and Conditions, Paragraph 17.

2. Drug-Free Workplace

Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Provide that every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor or grantee may be ineligible for award of any future State contracts if the Director of HWDC or designee determines that any of the

following has occurred: (1) Contractor or grantee has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. National Labor Relations Board

Contractor certifies that no more than one (1) final, unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296).

4. Workers' Compensation

Contractor certifies adherence with the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with such provisions before commencing the performance of the work of this Agreement.

5. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

Contractor certifies adherence with the regulations implementing Executive Order 12549, Debarment and suspension, 29 C.F.R. Part 98, Section 98.510, Participant's responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

EXHIBIT E**SAMPLE WORK AUTHORIZATION**

Work Authorization No. 1, Title: 70/752 Output Formatter

Task Summary Develop program to format and print simulated 70/752 displays using a sequential data set as input.

SCHEDULE DATES

Start Date: February 8, 2000

Completion Date: February 28, 2000

<u>Labor-hours</u>	<u>L/H Rate</u>	<u>Total Cost</u>
100	\$40.00	\$4,000.00\line

Contractor Personnel To Be AssignedJob Classification/Skill Level

Bill Jones

Staff Programmer Analyst

This task will be performed in accordance with this Work Authorization and the provisions of Agreement _____.

APPROVALS_____
Contractor Project Manager_____
State Project Director_____
Date_____
Date

EXHIBIT E**SAMPLE WORK AUTHORIZATION**

Work Authorization No. 1, Title: 70/752 Output Formatter
(Continued)

- A. Task Description
The objective of this task is to specify tasks, Deliverables, responsibilities and other requirements for the development of a program to format and print simulated 70/752 displays from a sequential data set. This sequential data set contains output messages generated by CICS test runs.
- B. Tasks and Responsibilities
1. Code and test simulator program.
2. Produce detailed program specification.
3. Produce JCL and operations procedure for program.
- C. Deliverables
1. Source code and source listing for simulator program.
2. Detailed program specification.
3. JCL and operations procedure.
- D. Completion Criteria
Delivery of the program and associated Deliverable items listed under heading "C" above will constitute completion of this task.
- E. Change Criteria
The program developed under this Work Authorization shall be subject to the change control procedures outlined in the proposal.
- F. State Responsibilities
1. Provide functional specification detailing output message formats and resulting screen displays.
2. Provide input sequential data set of messages for program test.
3. Verify test results.
4. Indicate acceptance of program.
5. Provide computer time.

EXHIBIT F**FEDERAL ASSURANCES—NONCONSTRUCTION PROGRAMS**

Contractor shall at all times during the term of the Agreement strictly adhere to all applicable federal and State laws and implementing regulations as they currently exist and may hereafter be amended.

Contractor acknowledges that the following laws are included into the Agreement:

1. Age Discrimination Act of 1975 42 U.S.C. §§ 6101, *et seq.*
2. Age Discrimination in Employment Act of 1967 29 U.S.C. §§ 621-634
3. Americans With Disabilities Act 42 U.S.C. §§ 12101, *et seq.* of 1990 (ADA)
4. Equal Pay Act 29 U.S.C. § 206(d)
5. Immigration Reform and Control Act of 1986 8 U.S.C. § 1324b
6. Section 504 of the Rehabilitation Act of 1973 29 U.S.C. § 794
7. Title VI of the Civil Rights Act of 1964 42 U.S.C. § 2002d
8. Title VII of the Civil Rights Act of 1964 42 U.S.C. § 2000e
9. Title IX of the Education Amendments of 1972 20 U.S.C. §§ 1681, *et seq.*
10. Section 306 of the Clean Air Act
11. Section 508 of the Clean Water Act

Contractor will not discriminate against any person on the basis of race, color, national origin, age, sex, religion, or handicap, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS related conditions, in performance of work under this Agreement, and all relevant sections of:

12. Executive Order 11246, as amended by Executive Order 11375.
13. Department of Labor Regulations (41 C.F.R. Part 60).
14. Section 503 of the Rehabilitation Act of 1973, as amended.
15. Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974.
16. The Drug Abuse Office and Treatment Act of 1972.
17. The Comprehensive Alcohol Abuse and Alcoholism Treatment Act of 1970.
18. Sections 523 and 527 of the Public Health Service Act of 1912.
19. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601).

Contractor shall also comply with any and all laws and regulations prohibiting discrimination in the specific programs which are the subject of this Agreement. In consideration of and for the purpose of obtaining any and all federal and/or State financial assistance, Contractor makes the following assurances:

20. At all times during the performance of this Agreement, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied benefits of the service, programs, or activities performed by Contractor, or be subjected to any discrimination by Contractor.

21. Contractor shall take all necessary affirmative steps, as required by 45 C.F.R. § 92.36(e), to assure that small and minority businesses and women's business enterprises are used, when possible, as sources of supplies, Equipment, and Services purchased under this Agreement.

22. As required by Executive Order 12549, Contractor certifies to the best of its knowledge and belief that it, its principals, agents, and Subcontractors:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from performing the terms of this Agreement by a government entity, either federal, State or local.

b. Have not within a three year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, State, or local) with commission of any of the offenses enumerated in paragraph b. of this section; and

d. Have not within a three year period preceding this Agreement had one or more contracts with a public agency terminated for cause or default.

23. Contractor certifies that it will provide a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988 and implemented at 45 C.F.R. Part 76, Subpart F for grantees, as defined at 45 C.F.R. Part 76, Sections 76.605 and 76.610.

EXHIBIT G
LEASE PLANS

EXHIBIT H
CASH EBT COUNTIES